

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Agriculture

DIVISION: Consumer and Industry Services

SUBJECT: Dicamba Pesticide Products

STATUTORY AUTHORITY: Dicamba products are registered and labeled in accordance with the federal Insecticide, Fungicide, and Rodenticide Act. Pursuant to Tennessee Code Annotated, §62-21 -116, dicamba may be applied consistent with its labeling. However Tennessee, like several other states, is experiencing exponential growth in dicamba-related complaints and investigations. Upwards of 40,000 acres of crops in Tennessee may have been affected by dicamba use and variables at issue to identify causes of the crop destruction are numerous. This rule is needed to slow potential crop destruction and to help identify causes of an immediate threat to the public welfare under §4-5-208.

EFFECTIVE DATES: July 11, 2017 through October 1, 2017

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: This emergency rule requires certification and licensure for application of dicamba pesticides used for agricultural purposes. Previously dicamba products were restricted primarily according to their label. This rule adds greater restrictions than the label by banning all pre-2017 formulations of dicamba products unless approved by the department; restricting application periods during the day and season; and requiring record retention for dicamba applications consistent with record requirements of restricted use pesticides.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

No impact is expected on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This rule requires certification and licensure for application of dicamba pesticides used for agricultural purposes. Previously dicamba products were restricted primarily according to their label. This rule adds greater restrictions than the label by banning all pre-2017 formulations of dicamba products unless approved by the department; restricting application periods during the day and season; and requiring record retention for dicamba applications consistent with record requirements of restricted use pesticides.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Dicamba products are registered and labeled in accordance with the federal Insecticide, Fungicide, and Rodenticide Act. Pursuant to T.C.A. §62-21-116, dicamba may be applied consistent with its labeling. However, Tennessee like several other states is experiencing exponential growth in dicamba-related complaints and investigations. Upwards of 40,000 acres of crops in Tennessee may have been affected by dicamba use and variables at issue to identify causes of the crop destruction are numerous. This rule is needed to slow potential crop destruction and to help identify causes of an immediate threat to the public welfare under T.C.A. §4-5-208.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Crop producers in Tennessee—including mostly soybean and cotton—are affected by this rule. Tennessee Farm Bureau Federation urges adoption of this rule.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

Terminix International Company, L.P. v. Tennessee Department of Labor, 77 S.W.3d 185 (Tenn. Ct. App. 2001) (State jurisdiction to regulate sale or use of pesticides is not preempted by federal authority).

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The estimated effect on departmental revenues and expenditures resulting from this rule is minimal.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Jai Templeton, Commissioner, Tennessee Department of Agriculture

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Jai Templeton, Commissioner, Tennessee Department of Agriculture

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

440 Hogan Road, Nashville, Tennessee 37220; (615) 837-5202; jai.templeton@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

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Sequence Number: 07-15-17
Rule ID(s): 6508
File Date (effective date): 7/11/17
End Effective Date: 10/1/17

Emergency Rule Filing Form

Emergency rules are effective from date of filing for a period of up to 180 days.

Agency/Board/Commission:	Tennessee Department of Agriculture
Division:	Consumer & Industry Services
Contact Person:	Jay Miller
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Phone:	(615) 837-5341
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Rule Type:

Emergency Rule

Revision Type (check all that apply):

Amendment

New

Repeal

Statement of Necessity:

This rule is promulgated to limit use of dicamba pesticide products in production of food or fiber in commerce. Dicamba (3, 6-dichloro-2-methoxybenzoic acid) is an active ingredient in certain broad-spectrum herbicides such as Banvel, Diablo, Oracle, and Vanquish, used to prevent or destroy broadleaf weeds and woody plants in both agricultural uses and other areas. For agricultural use prior to 2017, dicamba products were labeled only for pre-emergent application in burndown of fields to be planted later in the season; however, subsequent formulations and/or labels of some dicamba products have been federally approved for application over emergent crops. In 2016 Tennessee, Missouri, Arkansas, and numerous other states experienced exponential growth in pesticide complaints related to dicamba products, their use, and potential drift. In Tennessee, the vast majority of those complaints pertained to dicamba used in production of food or fiber. At last estimate, approximately 40,000 acres of crops in Tennessee in 2016—including soybean, cotton, and other products—were either destroyed or negatively affected by alleged dicamba misuse. In preparation of the 2017 growing season, the department increased outreach and educational efforts with producers in hopes that changes to technology and product labeling would forestall repeated crop destruction. However, elevated numbers of dicamba-related complaints have persisted in 2017, and the department anticipates that various crop producers in Tennessee have planned for, acquired resources for, and intend to continue dicamba applications in the 2017 growing season.

In complaints where dicamba is established as the likely cause of damage, the department finds that various factors may contribute to the dicamba's drift—e.g. use of older formulations that have greater propensity for drift; use of any dicamba product without proper equipment; applications in cooler parts of the day more subject to temperature inversion; and off-label application of products over emergent crops. While the department is still compiling data and a clearer understanding of specific problems related to dicamba use, it is clear that action must be taken in attempt to avoid future loss and to limit the variables at issue in order to speed the understanding of specific problems in dicamba applications. In light of the foregoing, the department finds that particular formulations of dicamba products and their application for agricultural purposes pose an immediate danger to the public welfare, and the nature of this danger is such that use of any other form of rulemaking authorized under the Tennessee Uniform Administrative Procedures Act would not adequately protect the public.

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0080-09-06	Emergency Rules
Rule Number	Rule Title
0080-09-06-.01	Dicamba

New

Chapter 0080-09-06
Emergency Rules

0080-09-06-.01 Dicamba.

- (1) Scope. This rule applies to any person who applies or causes the application of dicamba for agricultural purposes. This rule shall continue in effect from its date of filing until October 1, 2017.
- (2) Definitions.
 - (a) Terms in this rule share those meanings of terms set forth in the Tennessee Insecticide, Fungicide, and Rodenticide Act, compiled in title 43, chapter 8, parts 1 and 2 of the Tennessee Code, and the Tennessee Application of Pesticides Act of 1978, compiled in title 62, chapter 21 of the Tennessee Code.
 - (b) When used in this chapter, unless the context requires otherwise:
 1. Act means the Tennessee Insecticide, Fungicide, and Rodenticide Act and the Tennessee Application of Pesticides Act of 1978, collectively or individually;
 2. Dicamba means 3, 6-Dichloro-2-methoxybenzoic acid; 3-6-Dichloro-o-anisic acid; or any pesticide containing dicamba in any concentration;
 3. For agricultural purposes means for the aid of producing food or fiber in commerce.
- (3) Application.
 - (a) No person shall apply dicamba for agricultural purposes unless certified as a private applicator or licensed as a pest control operator in the category of Agricultural Pest Control (C01).
 - (b) No person shall apply for agricultural purposes any product containing dicamba formulated prior to 2017 unless such product is approved for use by the department prior to application. A list of formulated products approved for use, despite being covered by this subparagraph, is published at: <https://agriculture.tn.gov/listproducts.asp>.
 - (c) No person shall apply dicamba for agricultural purposes other than between the hours of 9:00 a.m. and 4:00 p.m.
 - (d) When used for agricultural purposes related to the production of cotton, no person shall apply dicamba following first bloom of the cotton crop. For purposes of this rule, first bloom occurs approximately 60 to 80 days following planting and shall be interpreted as commonly understood by industry practice.
- (4) Records. Any person who applies or causes the application of dicamba for agricultural purposes shall keep records related to the application as otherwise required under 0080-09-02-.07 and 0080-09-04-.09.
- (5) Violations.

- (a) Each per acre application of dicamba in violation of the Act or this rule shall constitute a separate violation of this rule.
- (b) A person is responsible for violations of the Act or this rule when committed by either the person or his agent.
- (c) Each violation of the Act or this rule is grounds for denial or revocation of any certificate, license, or charter issued under the Act; actions for injunction; and imposition of civil penalties or criminal charges against the violator.

Authority: T.C.A. §§ 4-3-203, 4-5-208, and 62-21-118.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of an emergency rule(s), lawfully promulgated and adopted.



Date: July 10, 2017

Signature: Jai Taylor

Name of Officer: Jai Taylor

Title of Officer: Commissioner

Subscribed and sworn to before me on: 07-10-17

Notary Public Signature: Theresa H. Denton

My commission expires on: 07-08-19

Agency/Board/Commission: _____

Rule Chapter Number(s): _____

All emergency rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter
7/11/2017
Date

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Filed with the Department of State on: 7/11/17

Effective for: 82 *days

Effective through: 10/1/17

* Emergency rule(s) may be effective for up to 180 days from the date of filing.

Tre Hargett
Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Commerce and Insurance

DIVISION: Board of Cosmetology and Barber Examiners

SUBJECT: Mobile shop licenses

STATUTORY AUTHORITY: Public Acts 2016, Chapter 983

EFFECTIVE DATES: July 24, 2017 through January 20, 2018

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: These emergency rules create regulations for mobile cosmetology and barber shops. These mobile shop licenses were created by the legislature in 2016 Public Chapter 983 and rulemaking authority within.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

These Rules will not have an impact on local government.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

These rules create regulations for mobile cosmetology and barber shops. These mobile shop licenses were created by the legislature in 2016 Public Chapter 983 and rulemaking authority within.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

2016 Public Chapter 983 was enacted by the Tennessee legislature creating a new mobile shop license which would allow cosmetologists and barbers to provide mobile services. This Act provides the Board with authority to promulgate rules in order to regulate such mobile shops and those persons engaging in activities within mobile shops. There are no known federal laws mandating promulgation of such rules.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

All licensees who currently own a shop or those persons who do not own a shop but would like to own a shop may be affected in that there is now a new opportunity to operate a mobile shop. It is unknown whether those persons urge adoption or rejection of this rule.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

There are no known opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The estimated state fiscal impact is determined to be minimal. It is assumed that the state will see an increase in state revenues in an amount of \$9,050 per fiscal year based upon an estimate of 1% of currently licensed shop owners who will apply for a mobile shop license.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Cherrelle Hooper, Assistant General Counsel
Roxana Gumucio, Executive Director, State Board of Cosmetology and Barber Examiners

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Cherrelle Hooper, Assistant General Counsel
Roxana Gumucio, Executive Director, State Board of Cosmetology and Barber Examiners

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

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(l) Any additional information relevant to the rule proposed for continuation that the committee requests.

None Known.

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Sequence Number: 07-33-17
 Rule ID(s): 6577-6579
 File Date (effective date): 7/24/17
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Emergency Rule Filing Form

Emergency rules are effective from date of filing for a period of up to 180 days.

Agency/Board/Commission:	The Board of Cosmetology and Barber Examiners
Division:	Regulatory Boards Division
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Rule Type:

Emergency Rule

Revision Type (check all that apply):

Amendment

New

Repeal

Statement of Necessity:

When Public Chapter 983 becomes effective on January 1, 2017, the Board is required to license qualified applicants to maintain mobile shops. Without the fees created by the foregoing rules, the Department will not be able to inspect these mobile shops. This creates a danger to the health and safety of the public since what would otherwise appear as a lawfully operated and state regulated shop will have never been inspected by any state agent.

The legislature has effectively required that rules be promulgated in a proscribed amount time in making Public Chapter 983 effective starting January 1, 2017. Pursuant to Tenn. Code Ann. 4-5-208 this creates a candidate for emergency rules.

Making application to operate a mobile shop is an option created by Public Chapter 983 for already licensed shop owners. Therefore, this enacted regulation on mobile shops does not affect anyone not currently licensed under the shop licensing scheme. As such, these rules will not require anyone to now pay a fee to operate a business model for which they were already operating prior to the enactment of Public Chapter 983.

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0200-01	Rules of the Barber Board
Rule Number	Rule Title
0200-01-.19	Mobile Shops

Chapter Number	Chapter Title
0440-01	Licensing
Rule Number	Rule Title

0440-01-.13	Fees
0440-01-.19	Mobile Shops

Chapter Number	Chapter Title
0440-02	Sanitary Rules
Rule Number	Rule Title
0440-02-.01	Definitions

Chapter 0200-01
Board of Barber Examiners
Amendments
Table of Contents

0200-01-.01 Requirements for School License	0200-01-.10 Original License Fee
0200-01-.02 Curriculum	0200-01-.11 Fees
0200-01-.03 Transcripts	0200-01-.12 Inspections
0200-01-.04 Applications for Examination	0200-01-.13 License Qualifications
0200-01-.05 Posting of Licenses	0200-01-.14 Teacher Training Programs
0200-01-.06 Expiration of Certificates of Registration	0200-01-.15 Student Kits
0200-01-.07 Equipment and Location Requirements for Barber Shops	0200-01-.16 Demonstrations
0200-01-.08 Educational Equivalent	0200-01-.17 Alcoholic Beverages
0200-01-.09 Examinations	0200-01-.18 Civil Penalties
	<u>0200-01-.19 Mobile Shops</u>

Chapter 0200-01
Board of Barber Examiners
New Rules

Chapter 0200-01 is amended by adding the following as new rule 0200-01-.19 [Mobile Shops]:

Mobile shops where barber services are performed shall meet the requirements in Rule 0440-01-.19 [Mobile Shops] and pay the fees set out in Rule 0440-01-.13 for mobile shops; provided, however, that the provision of barbering services in such shops shall be controlled by T.C.A. Title 62, Chapter 3 and these rules.

Authority: (2016) Public Chapter 983, T.C.A. §§ 62-3-128 and 62-4-125.

Chapter 0440-01
Board of Cosmetology
Amendments
Table of Contents

0440-01-.01 Requirements for School License	0440-01-.10 Original License Fee
0440-01-.02 Change of School Ownership and Relocation	0440-01-.11 Teacher Training Programs
0440-01-.03 Curriculum	0440-01-.12 Demonstrations
0440-01-.04 High School Equivalent	0440-01-.13 Fees
0440-01-.05 Requirements for Schools	0440-01-.14 Civil Penalties
0440-01-.06 Enrollment of Students	0440-01-.15 Practice by Instructor
0440-01-.07 Student Kits	0440-01-.16 Schools Providing Limited Instruction
0440-01-.08 Expiration of School Registration Renewal	0440-01-.17 Communication with the Board
0440-01-.09 Examination Passing Scores and Schools Attendance Ratio	0440-01-.18 Expedited Licensing for Certain Military Personnel and Spouses
	<u>0440-01-.19 Mobile Shops</u>

**Chapter 0440-01
Board of Cosmetology
Amendments**

Rule 0440-01-.13 [Fees] is amended by inserting the following as newly designated paragraph (6) and renumbering the subsequent paragraphs accordingly:

- (6) Mobile Shops
 - (a) New mobile shop license two hundred dollars (\$200.00)
 - (b) Renewal of a mobile shop license seventy five dollars (\$75.00)
 - (c) Mobile shop inspection fifty dollars (\$50.00)
 - (d) Change of ownership due to death of immediate family no charge, with a copy of the death certificate or obituary.

Authority: T.C.A. §§ 62-4-105(e), 62-4-110, 62-4-112, 62-4-115, 62-4-118, 62-4-120, 62-4-125, and 62-4-131-, 62-4-138, and (2016) Public Chapter 983.

**Chapter 0440-01
Board of Cosmetology
New Rules**

Chapter 0440-01 is amended by adding the following language as new rule 0440-01-.19 [Mobile Shops]:

- (1) Definitions
 - (a) "Mobile shop" shall have the same definition as in T.C.A. § 62-4-102(a)(16);
 - (b) "Primary shop" means the currently-licensed cosmetology, barber, or dual shop with a fixed location under whose license or registration a mobile shop is operated pursuant to T.C.A. § 62-3-134 or 62-4-138.
- (2) Application for License
 - (a) An application to operate a mobile shop shall include:
 - 1. The name, address, and license number of the primary shop under the license of which the mobile shop will operate;
 - 2. The name under which the mobile shop will operate;
 - 3. The types of cosmetology or barbering services to be performed at the mobile shop;
 - 4. The new license fee for a mobile shop as set by Rule 0440-01-.13; and
 - 5. The name, address, phone number, and license information of the mobile shop's manager, as defined in T.C.A. § 62-3-109(c)(1)(B) or § 62-4-102(a)(10) as the case may be, which may be the same or different as the manager of the primary shop under whose license the mobile shop is operating.
 - (b) The mobile shop and the primary shop shall be owned by the same person, persons or entity.

1. If the owner has a partnership agreement with another entity wherein one person operates the primary shop and another operates the mobile shop, the partnership agreement shall be disclosed to the Board office on a form provided by the Board office, due at the time the mobile shop application is submitted.
 2. It shall be the responsibility of the primary shop owner to inform the Board office when a business partnership dissolves.
- (c) The initial issuance of a mobile shop license shall be set to expire on the same date as the primary shop, but the application and registration fee for the mobile shop shall not be prorated.
- (d) A mobile shop shall undergo an initial inspection and pay the fee for the initial inspection prior to receiving licensure as a mobile shop.
- (e) An application for renewal of a mobile shop license shall include:
1. Any update or change in information previously provided to the Board regarding the mobile shop in the most recent application or renewal of such mobile shop;
 2. The mobile shop renewal fee as set by Rule 0440-01- 13;
 3. The submission of a date and location that the mobile shop will be located for the next two annual inspections; provided, however, that the Board shall not be required to accept such date or location.
- (3) The mobile shop shall receive all Board office correspondence through the permanent address of the mobile shop's primary shop.
- (4) The primary shop may be held liable for any acts by the mobile shop that would constitute grounds for discipline against the mobile shop.
- (5) Equipment Required
- (a) In lieu of any equipment required for a barber, cosmetology or dual shop, all mobile shops shall be required to have:
1. one (1) shampoo bowl with hot and cold running water in work area and chair;
 2. one (1) enclosed storage area for clean towels;
 3. one (1) covered and labeled container for soiled towels;
 4. one (1) covered and labeled trash container maintained in a sanitary condition;
 5. one (1) dry sterilizer, with fumigant, or sanitary compartment;
 6. one (1) wet sterilizer;
 7. one (1) work station (standard size) for each operator;
 8. one (1) ultra violet sanitizer; and
 9. one (1) blood spill kit.
- (b) In addition to the requirements of subparagraph (5)(a), a mobile shop offering skin care services shall also be required to have:
1. one (1) sink which provides hot and cold running water in the work area.

2. one (1) hands free magnifying lamp;
3. one (1) enclosed storage area for clean towels;
4. one (1) covered and labeled container for soiled towels;
5. one (1) covered and labeled trash container maintained in a sanitary condition;
6. one (1) reclining facial chair/table;
7. one (1) wet sterilizer for the equipment used;
8. one (1) ultra violet sanitizer;
9. one (1) blood spill kit;
10. one (1) sharps container for biohazard material removal;
11. one (1) electric hot towel cabin;
12. one (1) facial steamer; and
13. one (1) wax depilatory heater pot with manufacturer's intended commercial use statement.

(c) In addition to the requirements of subparagraph (5)(a), a mobile shop offering manicure services shall also be required to have:

1. one (1) manicure table with stool or chair, per manicurist;
2. one (1) wet sterilizer for equipment used;
3. one (1) finger bowl per table;
4. one (1) covered container per table for cotton balls and swabs;
5. one (1) foot bath if pedicures are offered; and
6. one (1) sign prominently posted stating that the customer has the right not to have drills used on his or her nails.

(d) The executive director to the Board may, in his/her discretion, waive one or more of the foregoing equipment requirements to accommodate mobile shops offering limited services. If services offered change, the mobile shop is required to complete a new application and receive a new inspection.

- (6) Every mobile shop shall contain sufficient equipment in working order to enable it to perform all services offered competently and efficiently.
- (7) The owner and/or manager of a mobile shop shall disclose the current location of a mobile shop upon the request of the Board or the Board's staff.
- (8) It is unlawful to operate a mobile shop unless it is, at all times, under the direction of a manager or designated manager. While on duty, the manager or designated manager shall be responsible for the shop's compliance with all laws and rules of the Board.
- (9) The manager and designated manager of a mobile shop may manage those who practice disciplines in cosmetology or barbering other than the discipline in which the manager or designated manager is licensed; however, the manager or designated manager shall only practice within the field that the person is licensed.

- (10) The manager, owner, and designated manager, when the designated manager is on duty, shall have the same responsibilities as described in T.C.A. § 62-3-111, if the shop is providing barbering services, and T.C.A. § 62-4-119, if the shop is providing cosmetology services.
- (11) If the owner of a mobile shop changes, then the new owner and primary shop shall apply for and receive a new mobile shop license, including paying all fees for such a new license, prior to operating the mobile shop.
- (12) The fee for changing the name of a mobile shop shall be the same as the fee for changing the name of a cosmetology or barber shop, provided, however, that a request to change the name of both a primary shop and a mobile shop at the same time shall be processed with a single such fee.
- (13) Each mobile shop shall be inspected at least annually and the owner of the mobile shop shall pay the fee for inspection as set by Rule 0440-01-13.
- (14) An inspector may inspect a mobile shop anytime the mobile shop is open for business any number of times per year.
- (15) There shall not be a late fee for the late renewal of a mobile shop license, provided that no mobile shop shall be operated while not properly licensed.
- (16) The mobile shop shall prominently display at all times the most recent license issued by the Board showing the name of the mobile shop and the name of the primary shop. This display must be visible from the outside of the mobile shop. The mobile shop is also required to have external signs with the name of the mobile shop.
- (17) The mobile shop shall be legally parked in a fixed position and fully stationary (not in motion) while rendering services to customers.
- (18) The mobile shop is required to dispose of any waste water in a sanitary sewer system.
- (19) Customers shall not be exposed to any dangerous condition inside a mobile shop resulting from vehicle emissions or vehicle maintenance.

Authority: (2016) Public Chapter 983, T.C.A. §§ 62-3-109, 62-3-111, 62-3-134, 62-4-105(e), 62-4-119, 62-4-125, and 62-4-138.

**Chapter 0440-02
Board of Cosmetology
Amendments**

Rule 0440-02-.01(1)(d) is amended by deleting the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (d) "Shop" means a cosmetology shop, manicure shop, skin care shop, or natural hair styling shop and includes a mobile shop unless context otherwise requires;

Authority: T.C.A. §§ 62-4-102, 62-4-105(e), and 62-4-134, and (2016) Public Chapter 983.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Ron R. Gillihan II	X				
Kelly Barger	X				
Nina Coppinger	X				
Judy McAllister				X	
Patricia J. Richmond	X				
Mona Sappenfield	X				
Frank Gambuzza				X	
Amy Tanksley	X				
Anita Charlton				X	
Yvette Granger	X				
Bobby N. Finger	X				
Brenda Graham	x				

I certify that this is an accurate and complete copy of an emergency rule(s), lawfully promulgated and adopted.

Date: July 13, 2017

Signature: *Cherrelle Hooper*

Name of Officer: Cherrelle Hooper

Title of Officer: Assistant General Counsel



Subscribed and sworn to before me on: July 13, 2017

Notary Public Signature: *Vanessa Huntsman*

My commission expires on: Nov 21, 2017

The Board of Cosmetology and Barber Examiners
 0200-01-.19 Mobile Shops
 0440-01-.13 Fees
 0440-01-.19 Mobile Shops
 0440-02-.01 Definitions

All emergency rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
 Herbert H. Slatery III
 Attorney General and Reporter
7/19/2017
 Date

Department of State Use Only

Filed with the Department of State on: 7/24/17

Effective for: 180 *days

Effective through: 1/20/18

** Emergency rule(s) may be effective for up to 180 days from the date of filing.*



Tre Hargett
Secretary of State

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PUBLICATIONS

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Commerce and Insurance

DIVISION: Board for Licensing Contractors

SUBJECT: Licensing and General Regulations for Home Improvement Contractors

STATUTORY AUTHORITY: The promulgation of these rules is not mandated by any federal or state law or regulation.

EFFECTIVE DATES: September 6, 2017 through June 30, 2018

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT:

The amendment to 0680-01-.02 Consideration of Applications clarifies who may perform as qualified agent for different types of entities and creates a deadline regarding how long a contractor has to replace a qualified agent before the license becomes invalid. The rule also mandates that the license of an individual or sole proprietorship shall automatically become inactive three (3) months after death of the individual or individual owner of the sole proprietorship unless another person or entity has applied to transfer the license.

The amendment to 0680-01-.13 Monetary Limitations clarifies the Board policy regarding personal guaranties which are utilized by licensees to supplement their financial statement in order to increase their license monetary limitation.

The amendment to 0680-01-.16 Appendix A of Rule 0680-01-12 (Classification System) adds details to existing license classifications and renames current classifications so as to clarify what work is covered by that classification.

The amendment to 0680-01-.24 Bidding Procedures requires roofing subcontractors to report their license information accurately to general contractors when the roofing project exceeds twenty-five thousand dollars (\$25,000.00).

New rule 0680-01-.28 renames current rule "Emergency Actions" as "Temporary Licensing" and adds details on the expedited licensed procedure for military personnel and spouses as required by TCA § 4-3-1304. All other aspects of the rule remain the same.

New rule 0680-07-.08 Temporary Licenses replaces the current rule pertaining to temporary licenses for home improvement applications and adds details on the expedited licensed procedure for military personnel and spouses as required by T.C.A. § 4-3-1304. All other aspects of the rule remain the same.

New rule 0680-07-.15 Civil Penalties details the grounds for disciplinary action by the Board against home improvement licensees and corresponding penalty amounts.

New rule 0680-07-.16 Contracting in Correct Name; Change of Name clarifies that licensees have a responsibility to enter into contracts and operate related contracting business under the name in which they are licensed in order to notify and prevent confusion on the part of the public at large regarding an entity's licensure status.

New rule 0680-07-.17 Misconduct lists grounds for disciplinary actions against home improvement licensees.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

See attached.



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
OFFICE OF LEGAL COUNSEL
500 JAMES ROBERTSON PARKWAY
DAVY CROCKETT TOWER
NASHVILLE, TENNESSEE 37243
TELEPHONE (615) 741-3072 FACSIMILE (615) 532-4750**

MEMORANDUM

TO: Tennessee Secretary of State, Division of Publications

FROM: Laura E. Martin

DATE: 3/29/2017

RE: Tennessee Board for Licensing Contractors Rulemaking Hearing; Public Comments

On March 28, 2017 at a regularly scheduled meeting the Tennessee Board for Licensing Contractors held a Rulemaking Hearing. This hearing was noticed on the Tennessee Department of Commerce and Insurance website on February 14, 2017.

At the time of the hearing a summary of the rules were read into the record. The public was then invited to make comments on the rules. There were no members of the public present that wished to make any comments on the rules. No additional comments were sent the Board's office prior to the hearing.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

T. C. A. § 4-5-403

§ 4-5-403. Economic impact statement

(1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule;

The proposed rules will affect more than 40 trades and professions across all facets of the construction industry in Tennessee. The vast majority of these trades and professions are considered small businesses.

(2) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record;

These rules provide clear expectations to contractors who are looking to raise the limitation on their license. Its also clearly states the considerations the Board undertakes when assessing penalties.

(3) A statement of the probable effect on impacted small businesses and consumers;

The effect on small businesses will be positive. These rules should allow small business owners clarity on how to raise their limitations, and should also give them a better understanding of the factors that were taken into consideration when penalties have been assessed against them.

(4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business;

There are no less burdensome, less intrusive or less costly methods of achieving the purpose of these proposed rules. The rules are specifically created to cater to small business owners, since the majority of the licensed businesses of the Board are small businesses.

(5) A comparison of the proposed rule with any federal or state counterparts; and

There is no federal counterpart to the proposed rules.

(6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

The rules are specifically created to cater to small business owners, since the majority of the licensed businesses of the Board are small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

There is no expected impact on Local Governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The amendment to 0680-01-.02 Consideration of Applications clarifies who may perform as qualified agent for different types of entities and creates a deadline regarding how long a contractor has to replace a qualified agent before the license becomes invalid. The rule also mandates that the license of an individual or sole proprietorship shall automatically become inactive three (3) months after death of the individual or individual owner of the sole proprietorship unless another person or entity has applied to transfer the license.

The amendment to 0680-01-.13 Monetary Limitations clarifies the Board policy regarding personal guaranties which are utilized by licensees to supplement their financial statement in order to increase their license monetary limitation.

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New rule 0680-07-.08 Temporary Licenses replaces the current rule pertaining to temporary licenses for home improvement applicants and adds details on the expedited licensed procedure for military personnel and spouses as required by T.C.A. § 4-3-1304. All other aspects of the rule remain the same.

New rule 0680-07-.15 Civil Penalties details the grounds for disciplinary action by the Board against home improvement licensees and corresponding penalty amounts.

New rule 0680-07-.16 Contracting in Correct Name; Change of Name clarifies that licensees have a responsibility to enter into contracts and operate related contracting business under the name in which they are licensed in order to notify and prevent confusion on the part of the public at large regarding an entity's licensure status.

New rule 0680-07-.17 Misconduct lists grounds for disciplinary actions against home improvement licensees.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

None Known.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Licensed Contractors and potential applicants will be most affected by these rules. The rule relating to personal guarantees was developed after the Home builders association asked the board to interpret the intended use of the personal guaranty agreement. The other subject matter covered was developed when the Board members concluded that there were additional areas that the public did not have the clear information that they needed.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None known.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

No fiscal impact foreseen.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Laura Martin, Assistant General Counsel; Carolyn Lazenby, Executive Director

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Laura Martin, Assistant General Counsel; Carolyn Lazenby, Executive Director

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Laura Martin
500 James Robertson Parkway
Davy Crockett Tower
Legal Division 5th Floor
Nashville, TN 37243

Carolyn Lazenby, Executive Director
500 James Robertson Parkway
Davy Crockett Tower
Tennessee Board For Licensing Contractors, 4th Floor
Nashville, TN 37243

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

N/A

Department of State**Division of Publications**

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 Nashville, TN 37243
 Phone: 615-741-2650
 Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 06-06-17
 Rule ID(s): 6549-6550
 File Date: 6/8/17
 Effective Date: 9/6/17

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Board for Licensing Contractors
Division:	Regulatory Boards
Contact Person:	Laura E. Martin, Assistant General Counsel
Address:	500 James Robertson Parkway, Nashville, TN 37243
Phone:	6157413072
Email:	Laura.Martin@tn.gov
Agency/Board/Commission:	Tennessee Board for Licensing Contractors

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0680-01	Licensing
Rule Number	Rule Title
0680-01-.02	Consideration of Applicant
0680-01-.13	Monetary Limitations
0680-01-.16	Appendix A of rule 0680-01-.12 (Classification System)
0680-01-.24	Bidding Procedure
0680-01-.28	Emergency Actions

Chapter Number	Chapter Title
0680-07	General regulations for home improvement contractors
Rule Number	Rule Title
0680-07-.08	Temporary licensing
0680-07-.15	Civil Penalties
0680-07-.16	Contracting in correct Name, Change of Name
0680-07-.17	Misconduct

{Redline}

Chapter 0680-01 Licensing Amendments

0680-01-.01 Application for License	0680-01-.16 Appendix A of Rule 0680-01-.12 (Classification System)
0680-01-.02 Consideration of Applications	0680-01-.17 Repealed
0860-01-.03 Special Meetings	0680-01-.18 Unlawful Bidding
0680-01-.04 Repealed	0680-01-.19 Civil Penalties
0680-01-.05 Repealed	0680-01-.20 Fees
0680-01-.06 Reinstatement of Invalid License	0680-01-.21 Citation Penalties
0680-01-.07 Repealed	0680-01-.22 Exemption
0680-01-.08 Change of Address or Officers	0680-01-.23 Requalification of Agent
0680-01-.09 Change in Mode of Operation	0680-01-.24 Bidding Procedures
0680-01-.10 Renewal of Licenses	0680-01-.25 Contracting in Correct Name; Change of Name
0680-01-.11 Joint Ventures	0680-01-.26 License Required for Property Owners
0680-01-.12 General and Specialty Classifications	0680-01-.27 Misconduct
0680-01-.13 Monetary Limitations	0680-01-.28 Emergency Actions
0680-01-.14 Request for Change of Classifications or Limitation	0680-01-.29 Limited Residential License
0680-01-.15 Review and Adjustment of Classifications and Monetary Limitation	

0680-01-.02 CONSIDERATION OF APPLICATIONS.

- (1) All applications for licenses will be considered at the regular meetings of the Board. Such meetings shall be held in Nashville, Tennessee, in the months of January, March, May, July, September and November; provided, however, that the Board may change the location of meetings at its discretion. Applicants will receive adequate notice of any such change.
- (2) At each regular meeting the Board will consider applications which have been properly completed and received in the Office of the Board by the twentieth (20th) day of the preceding month, however, this deadline may be waived for good cause shown. The Board reserves the right to consider an application for license at any time if consideration of the application at the regularly scheduled meeting would cause an undue hardship on the owner and be in the best interest of the public safety and welfare.
- (3) In order to obtain a certification authorizing the applicant to operate as a contractor, the following persons, otherwise known as the qualifying agent, must obtain a successful score on the examination in the appropriate classification, and must meet all Board requirements for a qualifying agent, and may be required to appear before the Board for an interview:
 - (a) ~~for a sole proprietorship- the person who is in responsible supervision of the business management and construction practice and is either the individual owner or the full-time employee with a written power of attorney; either the individual owner or full time employee with a written power of attorney to bind the sole proprietor, who has sufficient knowledge of the construction business in which the persons are licensed to perform.~~
 - (b) ~~for any partnership- the person who is in responsible supervision of the business~~

~~management and construction practice and is either a general partner or a full-time employee with written power of attorney; either a general partner or full-time employee with written power of attorney to bind the partnership, who has sufficient knowledge of the construction business in which the persons are licensed to perform.~~

- (c) ~~for any corporation the person who is in responsible supervision of the business management and construction practice and is either a major stockholder or a full-time employee with a written power of attorney; either a major stockholder (owning at least 20% of stock) or full-time employee with written power of attorney to bind the corporation, who has sufficient knowledge of the construction business in which the persons are licensed to perform.~~
- (d) ~~for any limited liability company the person who is in responsible supervision of the business management and construction practice and is either manager or full-time employee with a written power of attorney; either a manager, member or full-time employee with a written power of attorney to bind the organization, who has sufficient knowledge of the construction business in which the persons are licensed to perform.~~
- (e) ~~in the event that the qualifying agent in (a), (b) or (c) above leaves the employment of the business, written notice must be given within ten (10) days to the Board. the Board must be notified within ten (10) days of the death, resignation, termination, or incapacity of a qualifying agent. If the qualifying agent for the sole proprietorship, partnership, corporation, or limited liability company leaves the firm for any reason, a new qualifying agent must take the examination and be appointed within three (3) months. If not, the license becomes inactive until a new qualifying agent is appointed.~~
- (f) ~~the license of an individual, sole proprietorship or partnership shall automatically become inactive three (3) months after the death of the individual, individual owner, or the sole proprietorship, or partner unless another person or entity has applied to transfer/change ownership of the license.~~
- (f)(g) if anyone other than an individual with an ownership interest acts as a qualifying agent, then an owner or officer with an ownership interest or power of attorney must also appear along with the qualifying agent for interview before the Board.

Authority: T.C.A. §§ 62-6-108, 62-6-111, and 62-6-115.

Rule 0680-01-.13

- (1) Generally, the monetary limitation placed on a classification of a license may be determined as follows:
 - (a) For applicants having no apparent deficiency with respect to plant or equipment, the lesser of:
 - 1. ten (10) times the applicant's net worth; or
 - 2. ten (10) times the applicant's working capital. Accounts receivable that are more than three (3) months overdue may not be included within the calculation of working capital.
 - (b) At the Board's discretion, renewal applicants having no apparent deficiency with respect to plant or equipment, but with limited working capital, the greater of:

1. ten (10) times the applicant's working capital; or
 2. fifty percent (50%) of the applicant's net worth. (c) For other applicants, a lesser amount reflecting the degree of lack of plant or equipment.
- (2) Lines of credit and indemnities (on forms furnished by the Board) may be considered to raise a monetary limitation. Lines of credit may be added up to its full value to the working capital. Credit for indemnities will be limited to fifty percent (50%). However, if the applicant has a negative working capital, lines of credit will be recognized at fifty percent (50%) of value.
- ~~(3) A tolerance of ten percent (10%) will be allowed on the monetary limitation placed on any classification of a license other than a Limited Residential license.~~
- ~~(4) Subject to such tolerance, no contractor shall engage, or offer to engage, in any project of which the cost (including all material and labor furnished by or through another source other than the owner) would exceed the monetary limitation placed on his license. If a contractor holds a license with more than one classification with different monetary limits, the monetary limits shall not be combined to bid project~~
- (3) A Guaranty Agreement, line of credit, bond, or other indemnity may be required in addition to the financial statement in the following situations.
- (a) Applicants that have a primarily cash financial statement without fixed assets and;
 - (b) If an applicant company is completely or partly owned by a parent company then the Board may require the parent company to provide a financial statement along with a "Guaranty Agreement" in which the parent company agrees to guarantee the debts and obligations of the subsidiary company for all debts and obligations arising out of the contracting activities of the applicant. If the parent company cannot provide a "Guaranty Agreement" they may request the board to consider a bond in the Board's format. This bond would not be accepted in lieu of providing a financial statement.
- (4) A Guaranty Agreement may be utilized when an applicant wishes to supplement the working capital and/or net worth portion of their financial statement. The guarantor must submit a personal financial statement with a personal guaranty agreement.
- (5) The Board reserves the right to accept or decline Guaranty Agreements as a supplement to applicant financial statements depending on the individual circumstances of each application.
- (6) If a guarantor's spouse is named on the financial statement submitted with the Guaranty Agreement then the named spouse must also sign the Guaranty Agreement.
- (7) All Guaranty Agreements shall expire on the same date as the license that the agreement was provided to support.
- (8) Subject to such tolerance, no contractor shall engage, or offer to engage, in any project of which the cost (including all material and labor furnished by or through another source other than the owner) would exceed the monetary limitation placed on his license. If a contractor holds a license with more than one classification with different monetary limits, the monetary limits shall not be combined to bid a project.
- (a) A tolerance of ten percent (10%) of the monetary limit is allowed, except for the BC-A/r licenses.

Authority: T.C.A. §§ 62-6-108, 62-6-111.

0680-01-.16 APPENDIX A OF RULE 0680-01-.12 (CLASSIFICATIONS SYSTEM).

Outline of Classifications

BC – Building Construction

A. Residential—"Residential building contractors" are those whose services are limited to construction, remodeling, repair, or improvement of one (1), two (2), three (3), or four (4) family unit residences not exceeding three (3) stories in height and accessory use structures in connection therewith.

1. Limited Residential (r)-A limited residential contractor is authorized to bid on and contract for the construction, remodel, repair, or improvement of a single family dwelling the total cost of which does not exceed one hundred twenty five thousand dollars (\$125,000.00).

B. Commercial-A commercial building contractor is authorized to bid on and contract for the construction, erection, alteration, repair or demolition of any building or structure for use and occupancy by the general public, including residential construction with more than four (4) units or greater than three (3) stories in height.

2. Small Commercial (b)-A small commercial building contractor is authorized to bid on and contract for the construction, erection, alteration, repair or demolition of any building or structure for use and occupancy by the general public the total cost of which does not exceed seven hundred and fifty thousand dollars (\$750,000.00).

C. Industrial-A contractor under this classification is authorized to bid on and contract for the erection, alteration, repair and demolition of buildings or structures used for industrial production and service, such as manufacturing plants.

Building Categories

1. Each building category may apply to any major construction classification.
2. Pursuant to T.C.A. § 62-6-113, a contractor may not be licensed in six (6) or more categories under any one (1) major classification without successfully passing the written or oral examination, or both, for the major classification.
 1. Acoustical Treatments
 2. Carpentry, Framing and Millwork, etc.
 3. Drywall
 4. Floor Covering
 5. Foundations
 6. Glass, Window and Door Construction
 7. Institutional and Recreational Equipment

8. Lathe, Plaster, Stucco, and Aluminum Siding
9. Masonry -under one hundred thousand dollars (\$100,000.00), materials and
10. Ornamental and Miscellaneous Metal
11. Painting, Interior Decorating
12. Roof Decks
13. Site and Subdivision Development
14. Special Coatings and Waterproofing
15. Tile, Terrazzo and Marble
16. Insulation
17. Elevators, Escalators, and Dumbwaiters
18. Erection and Fabrication of Structural Steel
19. Concrete
20. Sheet Metal
21. Roofing-includes gutters and vinyl siding
22. Conveyors
23. Sandblasting
24. Golf Courses
25. Tennis Courts
26. Swimming Pools
27. Outdoor Advertising
28. Excavation
29. Landscaping
30. Fencing
31. Demolition
32. Millwright
33. Irrigation
34. Scaffolding

HC – Heavy Construction

- A. Marine (Wharves, Docks, Harbor Improvements and Terminals)
- B. Tunnel and Shaft
- C. Energy and Power Plants
- D. Dams, Dikes, Levees and Canals
- E. Mining Surface and Underground
- F. Oil Field Construction
- G. Oil Refineries
- H. Storm Damage Cleanup
- I. Landfill Construction

Heavy Construction Categories (Apply to All Areas)

- 1. Structural Steel Erection
- 2. Tower and Stack Construction
- 3. Foundation Construction, Pile Driving, Foundation Drilling, and Stabilization
- 4. Demolition and Movement of Structures
- 5. Clearing, Grubbing, Snagging and Rip Rap
- 6. Slipform Concrete Structures
- 7. Rigging and Crane Rigging
- 8. Welding

HRA - Highway, Railroad and Airport Construction

- A. Grading and Drainage-Includes grading, drainage pipe and structures, clearing and grubbing.
- B. Base and Paving
 - 1. Base Construction
 - 2. Hot and Cold Mix Asphalt
 - 3. Surface Treatment Asphalt
 - 4. Concrete Paving
- C. Bridges and Culverts

1. Painting
 2. Repair
 3. Demolition
 4. Bridge Deck Overlay (Sealant)
 5. Gunite
 6. Cofferdam
 7. Steel Erection
- D. Railroad Construction and Related Items
- E. Miscellaneous and Specialty Items
1. Traffic Safety
 - (a) Pavement Markers
 - (b) Signing
 - (c) Guardrail and Fencing
 - (d) Attenuators, signalization and roadway lighting
 2. Landscaping-Includes seeding, sodding, planting, and chemical weed and brush control.
 3. Pavement Rehabilitation-Includes pressure grouting, grinding and grooving, concrete joints, and underdrains.
 4. Well Drilling
 5. Miscellaneous Concrete-Includes sidewalks, driveways, curb and gutter, and box culverts.

MU – Municipal and Utility Construction

Municipal and Utility Construction includes all supervision, labor, material and equipment to complete underground piping, water and sewer plants and sewer disposal, grading and drainage, and paving (unless restricted to specific areas named).

- A. Underground Piping-Furnish supervision, labor, material and equipment to complete all underground piping for municipal and utility construction (unless restricted to specific areas names).
1. Gas Distribution and Transmission Lines
 2. Sewer Lines, Storm Drains, Rehabilitation and Structures
 3. Waterlines
 4. Underground Conduit

- B. Water and Sewer Systems*-* Classification BC-B is necessary in order to construct water and sewer plants.
- C. Grading and Drainage-Includes grading, drainage pipe and structures, clearing and grubbing.
- D. Base and Paving
 - 1. Base Construction
 - 2. Hot and Cold Mix Asphalt
 - 3. Surface Treatment Asphalt
 - 4. Concrete Pavement
 - 5. Miscellaneous Concrete (includes sidewalks, driveways, curb and gutter, and box culverts)

MC (CMC)-Mechanical Contracting (the classification CMC is noted on licenses issued after 1992 and represents that the licensee has passed the Board licensing exam and that no county or municipality shall require such state licensee or its employees to pass any county or municipal test or examination pursuant to T.C.A. § 62-6-111 (i)(2)(C)).

- A. Plumbing and Gas Piping
- B. Process Piping
- C. HVAC, Refrigeration, Gas Piping
- D. Sprinklers & Fire Protection
- E. Insulation of Mechanical Work
- F. Pollution Control
- G. Pneumatic Tube Systems
- H. Temperature Controls (Pneumatic/Electric)
- I. Boiler Construction & Repairs
- J. Fuel Gas Piping and Systems

LMC-Licensed Masonry Contractor

E (CE) - Electrical Contracting (the classification CE is noted on licenses issued after 1992 and represents that the licensee has passed the Board licensing exam and that no county or municipality shall require such state licensee or its employees to pass any county or municipal test or examination pursuant to T.C.A. § 62-6-111(i)(2)(C)).

- A. Electrical Transmission Lines

- B. Electrical Work for Buildings and Structures
- C. Underground Electrical Conduit Installation
- D. Sound and Intercom Systems, Fire Detection Systems, Signal and Burglar Alarm Systems And Security Systems up to seventy (70) volts do not require examination-
*Please note that a separate license, issued by the Tennessee Alarm Systems Contractors Board, is also required for alarm systems.
- E. Electrical Signs
- F. ~~Telephone Lines and Ducts~~ Data Communication Systems (e.g. fiber optics & cabling)
- G. Cable T.V.
- H. Substations
- I. ~~Electrical Temperature Controls~~ Building Automation Controls
- J. Fire detection systems, signal and burglar alarm systems, and security systems with conduit and wiring above seventy (70) volts require an electrical exam.
- K. Roadway Lighting, Attenuators and Signalization - requires electrical examination.
- L. Electric Meter Installation

S – Specialty The Board will utilize the system of classifications set forth in Appendix A. The Board reserves the right to depart from the classification system in appropriate individual cases.

S - Specialty/Environmental work falling within the definition of contracting pursuant to T.C.A. § 62-6-102.

- A. Asbestos Material Handling/Removing
- B. Underground Storage Tank
- C. Lead-Based Paint Abatement
- D. Hazardous Waste Removal
- E. Air, Water or Soil Remediation
- F. Mold Remediation

In each of the above environmental classifications, the following requirements apply:

1. In order to be eligible for licensure in this specialty classification, the applicant shall furnish evidence satisfactory to the Board that the designated employee(s) shall have completed all training courses as required by the applicant state and federal agencies. In

the event training courses are unavailable, the applicant's education, training, experience and equipment will be determined and considered in order to qualify the applicant for licensure.

2. A contractor holding a license in this specialty classification shall, as a condition for renewal of such license, keep abreast of all applicable state and federal requirements to ensure "state of the art" handling and removing of above materials by requiring its designated employee(s) to do so.
3. A contractor shall, whenever work in this specialty classification is in progress, have physically on the job site the designated employee(s) directly responsible for the work.
4. A contractor shall notify the Board of any citation lodged against it, or any of its employees, relative to work in a specialty classification within ten (10) days of receipt of the citation.

S-Specialty/Medical Gas Piping installation, maintenance and repair work falling within the regulation of medical gas piping pursuant to T.C.A. § 68-11-253.

A. Medical Gas Piping Installer Certification Requirements.

1. The minimum qualifications for board certification are the qualifications for certification established by the American Medical Gas Institute (AMGI) or the Piping Industry Progress and Education Trust Fund (PIPE). A minimum of thirty-two (32) hours of training, with eight (8) of such hours in brazing, shall be required for board certification. The board shall from time to time revise minimum qualifications for board certification to include the most current edition of NFPA 99C "Standard on Gas and Vacuum Systems."
 - (a) The minimum of thirty-two (32) hours of training for board certification as a medical gas installer shall include training in the following areas from the most current edition of NFPA 99C, Gas and Vacuum Systems:
 - (1) Medical Gas Systems.
 - (2) Gas Distribution Systems.
 - (3) Installation of Pressurized Gas Systems.
 - (4) Vacuum Piping.
 - (5) Brazing Techniques for Medical Gas Systems.
 - (6) Requirements for Levels of Patient Care.
2. The board may designate and approve independent examining agencies, as

necessary, to provide the training and examinations necessary for board certification required by T.C.A. § 68-11-253. The board will review an examining agency's curriculum prior to its designation to determine compliance with the minimum qualifications listed above in A.1.(a).

3. The designated examining agency may charge reasonable fees for training and examination as determined appropriate by the board.

Rule 0680-01-.24 Bidding Procedures

- (1) Pursuant to T.C.A. § 62-6-102, a subcontractor is required to be licensed in order to perform electrical, plumbing, heating ventilation, air conditioning work, and roofing work when the amount is twenty-five thousand dollars (\$25,000.00) or more; and masonry work when the amount is one hundred thousand dollars (\$100,000.00) or more, including materials and labor. It is the subcontractor's responsibility to furnish evidence to the prime contractor of an active license with the appropriate name, classification, monetary limit, and expiration date, regardless of how the bid is transmitted. Failure to comply with this rule shall not require no consideration of the subcontractor's bid, if appropriately licensed, but said subcontractor may be subject to discipline by the Board.
- (2) Any prime contractor submitting a bid pursuant to T.C.A. § 62-6-119(b) shall list on the outside of the bid envelope or in the submission of an electronic bid only one electrical contractor, one plumbing contractor, one heating ventilation and air conditioning contractor and one masonry contractor with appropriate classification and monetary limit or the bid shall not be considered. Award of the subcontract to one not listed on the base bid envelope or in the submission of an electronic bid in violation of T.C.A. § 62-6-119 will be subject to review and disciplinary action by the Board.

Authority: T.C.A. §§ 62-6-102, 62-6-103, 62-6-108, 62-6-111, 62-6-119.

0680-01-.28 Emergency Actions Temporary Licensing

(1) Hardships or Emergency Actions

- ~~(1)(a)~~ The Executive Director is permitted to approve increases in the monetary limits and to consider timely licensure applications or renewal applications for which there are no evident impediments to licensure and for which loss of substantial business is imminent if licensure is delayed. The Executive Director shall obtain consent of at least one (1) Board member for purposes of considering the issuance of the temporary license.
- ~~(2)(b)~~ The application for a temporary license may be denied or delayed in order to request more information regarding a contractor's financial statement or any other issue which is deemed to have a possible detrimental effect to the public safety and welfare.
- ~~(3)(c)~~ Notice of emergency actions shall be posted on the Board's website and shall be scheduled as the first agenda item at the next scheduled meeting of the Board in order that the Board may review and, in its discretion, modify the actions of the

executive director.

(4)(d) Applicants who wish to apply for an emergency-hardship license shall submit the following:

(a)1. Contractor's License Application

(b)2. Written request from the project owner describing the hardship and letter must include: details of the hardship; reason the emergency-hardship application process should be utilized; reason for requiring the use of the applicant contractor as opposed to a currently licensed contractor; description of the project and location; and the bid date, if applicable

(e) The Board must ratify the issuance of a hardship license at their next regularly scheduled board meeting. The Board may deny the license or terminate the temporary license by providing written notice of the rejection within fifteen (15) days of the board meeting.

Authority: T.C.A. §§ 4-3-1304, 62-6-108, 62-6-109, 62-6-111, 62-6-116 and 62-6-117.

Chapter 0680-07
General Regulations for Home Improvement Contractors
Amendments

0680-07-.01	Fees	0680-07-.09	License Renewals
0680-07-.02	Definitions	0680-07-.10	Credit Reports
0680-07-.03	License for Home Improvement Contractors	0680-01-.11	Financial Statement
0680-07-.04	Advertising	0680-01-.12	Filing of Security Prior to Issuance of License
0680-07-.05	Notice of Change of Licensing Information	0680-01-.13	Bonds
0680-07-.06	Time Limitations for Filing Complaints	0680-07-.14	County Adoption of Home Improvement Law
0680-07-.07	Application for Licensure as Home Improvement Contractor	0680-07-.15	Civil Penalties
0680-07-.08	Temporary Licenses	0680-07-.16	Contracting in Correct Name; Change of Name
		<u>0680-07-.17</u>	<u>Misconduct</u>

Rule 0680-07-.08 Temporary Licenses

(1) Temporary Licenses

~~(4)~~(a) Pursuant to T.C.A. § 62-6-506(d), the Executive Director may grant an application for a home improvement license ~~a temporary license~~ pending a final decision of the Board on the Application for a permanent license if:

(a)1. applicant has properly filed for a permanent license and has paid the requisite license fee;

(b)2. applicant has filed a bond or evidence of financial responsibility in

accordance with T.C.A. § 62-6-506(h);

- (e)3. applicant has submitted a written request for a temporary license to the Executive Director; and
- (d)4. the Executive Director determines that granting the applicant a temporary license is in the public interest and that granting the applicant a temporary license does not pose a substantial risk of harm to owners for whom the applicant would do home improvement work.

(2)(b) As soon as reasonably possible after receiving a written request for a temporary license, but not more than forty five (45) days after receiving the request, the Executive Director shall inform the applicant in writing whether the Executive Director has denied or granted the applicant a temporary license. If the Executive Director grants an applicant a temporary license, the writing to the applicant shall state that the temporary license terminates automatically when the Board decides to issue or deny the applicant a permanent license and that the Executive Director can terminate the temporary license at any time before final action on the application for a permanent license. Notwithstanding the above, a temporary license shall automatically expire after sixty (60) days from the effective date, and may not be renewed. If an additional application for a temporary license is filed within thirty (30) days after expiration of a previously issued temporary license, then the fee shall be twenty-five dollars (\$25.00).

(3)(c) When the Executive Director issues a temporary license to an applicant, the Executive Director shall issue the applicant a license which is specially marked as temporary. This temporary license may be in the form of a letter from the Executive Director. The Executive Director shall state in this letter the effective date of the temporary license.

(4)(d) A temporary license shall automatically expire if the Board issues a Final-Order final decision denying the applicant's request for a permanent license.

(5)(e) The Executive Director or the Board may terminate a temporary license at any time for any reason which is not arbitrary or capricious. When the Executive Director or the Board terminates a temporary license, it shall take effect upon receipt by the applicant of the notice of termination, or ten (10) days after the mailing of the notice of termination, or whichever comes first.

Authority: T.C.A. §§ 4-3-1304 62-6-506(g), 62-6-506(f), 62-6-507, and 62-6-513.

Chapter 0680-07
General Regulations for Home Improvement Contractors
New Rules

0680-07-.15 Civil Penalties

- (1) The Board may in a lawful proceeding respecting licensing (as defined in the Uniform Administrative Procedures Act), and T.C.A. § 56-1-308, in addition to or in lieu of any other lawful disciplinary action, assess civil penalties for violations of statutes, rules, or orders enforceable by the Board in accordance with the following schedule:

<u>Violation</u>	<u>Penalty</u>
<u>T.C.A. § 62-6-502</u>	<u>\$50.00-\$1,000.00</u>
<u>T.C.A. § 62-6-509(a)(1-6)</u>	<u>\$50.00- \$500.00</u>
<u>T.C.A. § 62-6-510(1)(2)(5)(6)(7)(8)(9)(10)(11)(12)(13)(15)(16)</u>	<u>\$50.00- \$500.00</u>
<u>T.C.A. § 62-6-510(3), (4), or (141)</u>	<u>\$50.00-\$25,000.00</u>

(2) In determining the amount of any penalty to be assessed pursuant to this rule, the Board may consider such factors as the following:

(a) Whether the amount imposed will be a substantial economic deterrent to the violator;

(b) The circumstances leading to the violation;

(c) The severity of the violation and the risk to consumers;

(d) The economic benefits gained by the violator as a result of non-compliance;

(e) The interest of the public;

(f) The willfulness of the violation; and,

(g) The extent to which the licensee has sought to compensate any victim(s) of the violation.

(3) For the purposes of assessment of civil penalties pursuant to this rule each day of continued violation shall constitute a separate violation.

Authority: T.C.A. §§ 62-6-509, 62-6-513, 62-6-518.

0680-07-.16 Contracting in Correct Name; Change of Name is added as a new rule and shall read as follows:

0680-07-.16 Contracting in Correct Name; Change of Name

(1) Upon receiving a certificate of licensure from this Board, the licensee has an affirmative responsibility to enter into contracts and operate its related contracting business under the name in which it is licensed in order to notify and prevent confusion on the part of the public at large of an entity's licensure status. Contracting, as defined by T.C.A. § 62-6-102(4)(A)(i) in a name different than that in which an individual or entity is licensed by this Board is considered a violation of this chapter, and will be cause for appropriate disciplinary action.

Authority: T.C.A. §§ 62-6-509, 62-6-510, 62-6-513.

0680-07-.17 Misconduct shall be added as a new rule and shall be read as follows:

0680-07-.17 Misconduct

The following acts may constitute misconduct and may result in disciplinary action against licensees including possible revocation or suspension of license. The acts include, but are not limited to:

- (1) Failure to cooperate with an investigation related to a complaint filed with the Board. This includes failure to respond in writing to any communication from the Board requesting a response within thirty (30) days of mailing such communication by registered or certified mail to the last address furnished to the Board by the licensee;
- (2) Failure to abide by a warranty agreement;
- (3) Pulling a building, electrical, plumbing, or like permit for a job in which an unlicensed contractor is acting as the general contractor or consenting to or allowing for a contractor's license number to be utilized by an unlicensed contractor or improperly licensed contractor in the furtherance of unlicensed contracting;
- (4) Failure to maintain worker's compensation if insurance is required by Tennessee statute;
- (5) Revocation, suspension, or voluntary surrender of contractor's license in another jurisdiction;
- (6) Failure to pay a civil judgment rendered against the contractor by a court of competent jurisdiction if the conduct that is central to the judgement is related to the contracting industry;
- (7) Failure to respond to customer inquiries regarding completion of work and/or dissatisfaction with quality of work;
- (8) Submitting documentation to the Board that is false, forged, altered or otherwise misleading or knowingly making any false statement related to a license application or to an investigation conducted by the Board or Board employees.

Authority: TC.A §§ 62-6-509 62-6-510. 62-6-513.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Ernest Owens	X				
Ronnie Tickle	X				
Keith Whittington	X				
Jerry Hayes	X				
Bill Mason	X				
Cindi DeBusk	X				
Randy Chase	X				
Mark Brodd	X				
Reese Smith				X	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board for Licensing Contractors on 07/26/2016, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 01/31/2017

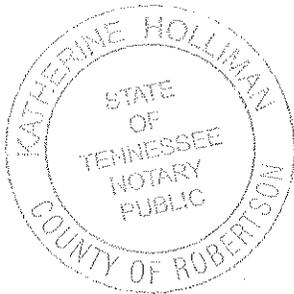
Rulemaking Hearing(s) Conducted on: (add more dates). 03/28/2017

Date: 5/12/17

Signature: Laura E. Martin

Name of Officer: Laura E. Martin

Title of Officer: Assistant General Counsel



Subscribed and sworn to before me on: 5/12/17

Notary Public Signature: Katherine Holliman

My commission expires on: 6/28/2017

Agency/Board/Commission: Licensing Contractors

Rule Chapter Number(s): 0680-01, 0680-07

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter
5/21/2017
Date

Department of State Use Only

Filed with the Department of State on: 6/8/17

Effective on: 9/6/17

Tre Hargett
Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Commerce and Insurance

DIVISION: Board for Licensing Contractors

SUBJECT: Go Build Tennessee

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 4-41-101 et seq.

EFFECTIVE DATES: October 16, 2017 through June 30, 2018

FISCAL IMPACT: None

STAFF RULE ABSTRACT: The proposed rules govern the corporation "Go Build" which was created by statute in the 2015 legislative session.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

(1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule;

The proposed rules will affect more than 40 trades and professions across all facets of the construction industry Tennessee. The vast majority of these trades and professions are considered small businesses.

(2) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record;

These rules create a quarterly schedule in which the corporation shall submit reports to include acceptable fiscal accounting practices and performance accountability metrics that are consistent with growth indicators in the construction industry. No new professional skills will be required by any licensee to administer these new rules.

(3) A statement of the probable effect on impacted small businesses and consumers;

The effect on small businesses will be positive. These rules develop and implement a program designed to attract and increase career opportunities for secondary and postsecondary students in the construction industry. The rule will also have a positive impact on consumers by meeting the current boom in consumer demand for services provided by the construction industry based on the projected workforce increase.

(4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business;

There are no less burdensome, less intrusive or less costly methods of achieving the purpose of these proposed rules. The rules that are proposed will actually create less of a burden on many licensed professionals and small businesses because the intended increase in the workforce will decrease the time and money required to complete construction projects.

(5) A comparison of the proposed rule with any federal or state counterparts; and

There is no federal counterpart to the proposed rules. The proposed rules are modeled after similar programs in Alabama and Georgia. However, the programs have not been codified into state statutes.

(6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

The overwhelming majority of businesses that are affected by these rules are small businesses. The rule does not create any additional requirements for small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The proposed rules will not have an impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The proposed rules govern the corporation "Go Build" which was created by statute in the 2015 legislative session.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The proposed rules are to effectuate T.C.A. §§ 4-41-101 et al.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

These rules are required by T.C.A. § 4-41-101. The Board, in contributing funds toward Go Build, is also tasked with creating rules to oversee the operations of the corporation. These rules will affect the members of the Corporation. These rules were drafted with the cooperation of the Corporation. The Board urges the adoption of these rules.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None known.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

None known.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Laura Martin, Assistant General Counsel, and Carolyn Lazenby, Executive Director

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Laura Martin, Assistant General Counsel, and Carolyn Lazenby, Executive Director

- (H)** Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Laura Martin,
Office of Legal Counsel
500 James Robertson Parkway
Nashville, TN 37243
615-741-3072

Carolyn Lazenby
500 James Robertson Parkway
Nashville, TN 37243

(l) Any additional information relevant to the rule proposed for continuation that the committee requests.

None known.

Department of State**Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower

Nashville, TN 37243

Phone: 615-741-2650

Email: publications.information@tn.gov**For Department of State Use Only**Sequence Number: 07-27-17Rule ID(s): 6575File Date: 7/18/17Effective Date: 10/16/17

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Board for Licensing Contractors
Division:	Regulatory Boards
Contact Person:	Laura E. Martin, Assistant General Counsel
Address:	500 James Robertson Parkway, Nashville, TN 37243
Phone:	615-741-3072
Email:	Laura.Martin@tn.gov
Agency/Board/Commission:	Tennessee Board for Licensing Contractors

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0680-08	Go Build Tennessee
Rule Number	Rule Title
0680-08-.01	Definitions
0680-08-.02	Reports
0680-08-.03	Requests for Information by the Board
0680-08-.04	Contracts for Resources
0680-08-.05	Contractual or Promotional Agreements
0680-08-.06	Go Build Account
0680-08-.07	Applications for Disbursements
0680-08-.08	Disbursing of Funds

REDLINE

Chapter 0680-08 Go Build Tennessee

New Rules

RULES OF The TENNESSEE BOARD FOR LICENSING CONTRACTORS CHAPTER 0680-08 GO BUILD

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<u>0680-08-.03 Requests for Information by the Board</u>	<u>0680-08-.07 Applications for Disbursements</u>
<u>0680-08-.04 Contracts for Resources</u>	<u>0680-08-.08 Disbursing of Funds</u>

0680-08-.01 Definitions

- (1) "Board" means the Tennessee Board for Licensing Contractors.
- (2) "Corporation" means the Corporation created to implement and administer the Go Build Tennessee Program pursuant to T.C.A. § 4-41-103.
- (3) "Program" means the "Go Build Tennessee Program" created in T.C.A. title 4, chapter 41.

Authority: T.C.A. § 4-41-105.

0680-08-.02 Reports

- (1) The Corporation shall submit quarterly reports to the commissioner of the department of labor and workforce development and the Executive Director of the Board. The quarterly reports shall include:
 - (a) A compilation prepared by a licensed Certified Public Accountant in compliance with generally accepted accounting principles; and
 - (b) Information documenting the number of training opportunities for secondary and postsecondary students in the construction industry created or attracted by the Corporation during that quarter. These reports should indicate increases and decreases in training opportunities from the previous quarter.
 1. Enrollment statistics will measure the impact of the Corporation's effect. Enrollment data is to be collected from the Tennessee Division of College, Career and Technical Education, The Tennessee Board of Regents, The Tennessee Council for Career and Technical Education, and the Tennessee Department of Education. The Program may also conduct additional surveys to gather relevant information.
- (2) The Corporation shall submit a copy of the annual report submitted pursuant to T.C.A. § 4-41-109(b) including a statement of the Corporation's operations, and all information requested in paragraphs (1)(a) and (1)(b) of this rule on an annual basis, to the Board within ninety (90) days after the end of the Corporation's fiscal year.

0680-08-.03 Requests for Information by the Board

- (1) The Corporation shall respond within seven (7) calendar days to any request for information pertaining to the disbursement of funds and provide all information pertinent to such request by the Board, its Executive Director, or such person authorized to act on behalf of the Board or its Executive Director; however, the Executive Director may allow for a reasonable extension of time for a response upon written request by the Corporation unless the Board has voted to not allow such additional period.
- (2) Within seven (7) calendar days of scheduling a meeting of the Corporation, the Corporation shall notify the Executive Director of the Board of the date, time, and location of the scheduled meeting.
 - (a) If an emergency meeting of the Corporation is scheduled to take place within one (1) week of scheduling the meeting, the Corporation shall notify the Executive Director immediately.

Authority: T.C.A. § 4-41-105.

0680-08-.04 Contracts for Resources

- (1) Should the Corporation contract with independent persons or entities for materials, labor, or any other needed resources that the Corporation may lawfully obtain, the Corporation shall adhere to the following protocol:
 - (a) The Corporation shall receive at least three (3) bids to perform a contract unless the Corporation makes a finding in writing that one of the following contingencies exists:
 1. that receiving multiple bids would not be in the best interest of the Corporation;
 2. that the Corporation has previously attempted to obtain multiple bids but was unable to do so; or
 3. that the qualifications of one (1) vendor make it the only qualified vendor to provide the services required under the contract.
 - (b) All bids shall be in writing, shall disclose the person or entity's name making the bid, the price or cost structure – including total cost under the contract, and such other information as the Corporation may require.
 - (c) No member of the Corporation shall take part in the consideration or discussion of a contract if such person has a direct or indirect interest in any company placing a bid. Direct interest in a company means any ownership interest by the Corporation member or any member of such person's immediate family. Indirect interest includes social, familial, or professional connections which reasonably prevent a member of the Corporation from acting objectively.
 - (d) The Corporation shall select the best vendor taking into account the overall cost, the professional qualifications of the vendor, and the needs of the Corporation.
 - (e) The Corporation may delegate the review and acceptance of bids to one (1) or more persons each having no direct or indirect interest in any of the bidders, as defined above, who shall review all submissions and choose a qualifying person or entity based on overall cost, the professional qualifications of the vendor, and the needs of the Corporation.

- (f) No member of the Corporation or any entity that they have an interest in directly or indirectly have a financial interest in shall enter into a contract with the Corporation for resources or services.

Authority: T.C.A. § 4-41-105.

0680-08-05 Contractual or Promotional Agreements

- (1) A copy of the following information shall be sent to the Board office within thirty (30) days after entering into a contractual or promotional agreement pursuant to § 4-41-104:
- (a) A statement of the purpose or direction of the contractual or promotional agreement;
 - (b) A detailed description of the contractual or promotional agreement and timeline of any such agreement;
 - (c) The name of any entity with whom the Corporation entered any such contractual or promotional agreement;
 - (d) The maximum amount to be expended under any contractual or promotional agreement; and
 - (e) The number of bidders considered in awarding the contractual or promotional agreement.
- (2) Any change in the information provided pursuant to paragraph (1), including any extension of an agreement or additional expenditure under an agreement, shall be publicly disclosed in the same manner as provided in paragraph (1).

Authority: T.C.A. § 4-41-104, § 4-41-105.

0680-08-06 Go Build Account

- (1) To fund the Program, fifty percent (50%) of the Board's excess licensing revenue collected during that fiscal year after all expenditures for that fiscal year shall be transferred to the Go Build Account on an annual basis.
- (a) The transfer of funds shall be made during the first quarter of every fiscal year beginning with 2015-2016, with the last transfer to be made in fiscal year 2018-2019.
 - (b) All funds that are transferred to the Corporation shall be transferred from the Board's reserve balance and shall not be budget expenditure.
- (2) Prior to any dissolution of the Corporation, the members shall cause the Corporation to discharge or make reasonable provisions for the payment of claims and make distributions of all assets after payment or provision of claims to the Board. If funds were contributed to the Corporation by entities other than the Board, the Corporation shall pro rate the amount to be remitted to the Board based on the percentage of their contribution plus any amount used during the current fiscal year from the initial funding contribution compared to all contributions made within the current fiscal year. All other assets and funds shall be distributed, after payment or provision of claims, according to Tennessee and federal law.

Authority: T.C.A. § 4-41-105.

0680-08-07 Applications for Disbursements

- (1) The Program may, but is not required to, make grant applications available to Programs, as described in this rule.
- (2) If the Program accepts grant applications, any eligible institution may make application to the Program. The Program shall require each eligible institution to file a written application with the Corporation prior to any disbursement.
 - (a) "Eligible institution" means secondary schools in Tennessee, postsecondary schools in Tennessee, the Tennessee colleges of applied technology, and other community colleges in Tennessee.
 - (b) "Eligible program" means career and technical education Programs or other certified and nationally accredited programs that encourage and promote career opportunities in the construction industry that are in secondary schools in this state, postsecondary schools in this state, the Tennessee colleges of applied technology, and other community colleges in this state.
- (3) A copy of the statement of purpose or direction pursuant to 0680-08-06 (1)(a), a copy of the detailed description of the project and timeline pursuant to 0680-08-06 (1)(b), the name of the applicant, and the total amount of funds approved to be disbursed from the Program pursuant to any application resulting in the Corporation granting funds from the Program to an eligible institution for an eligible Program shall be publicly disclosed on the Corporation's website within thirty (30) days after any agreement is made.
- (4) The Corporation shall receive all applications in writing and in choosing which applicants will receive grants shall follow the following protocol:
 - (a) The application shall disclose the person or entity's name making application;
 - (b) No member of the Corporation shall take part in the consideration of or discussion of an application if such person has a direct or indirect interest in any person or entity making application. No member shall propose on or contract with the Corporation if such person has a direct interest in or an indirect financial interest in any person or entity making application. Direct interest in a person or entity means any ownership interest by the Corporation member or any member of such person's immediate family. Indirect interest includes social, familial, or professional connections which reasonably prevent a member of the Corporation from acting objectively; and
 - (c) The Corporation may delegate the review of applications to one (1) or more persons each having no direct or indirect interest in any of the applicants, as defined above, who shall review all submissions and choose a qualifying person or entity.

Authority: T.C.A. § 4-41-105.

0680-08-.08 Disbursing of Funds

- (1) Funds collected pursuant to T.C.A. § 4-41-105(b) shall be used by the Corporation to pay expenses incurred by the Corporation for the administration of the Program.
- (2) Funds shall be used to encourage and promote career opportunities in the construction industry by way of attending a school with career and technical education Programs and other certified and nationally accredited Programs that are in secondary and postsecondary schools in this state, Tennessee colleges of applied technology, and other community colleges in this state, and through apprenticeship Programs.

Authority: T.C.A. §§ 4-41-105, 4-41-107, 4-41-108..

Rules of the Tennessee Board for Licensing Contractors
Chapter 0680-08 Go Build Tennessee

Rule 0680-08-.01, 0680-08-.02, 0680-08-.03, Rule 0680-08-.04, 0680-08-.05, Rule 0680-08.06 t, 0680-08-.07 t, 0680-08-.08

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Mark Brodd	X				
Keith Whittington	X				
William Mason	X				
Reese Smith	X				
Jerry Hayes	X				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (board/commission/other authority) 09/30/2016, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: June 15, 2017

Signature: Laura E. Martin

Name of Officer: Laura E. Martin

Title of Officer: Assistant General Counsel



Subscribed and sworn to before me on: June 15, 2017

Notary Public Signature: Carol L. McGlynn

My commission expires on: Nov. 5, 2019

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III

Herbert H. Slatery III
Attorney General and Reporter

7/6/2017 Date

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 PUBLICATIONS

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Filed with the Department of State on: 7/18/17

Effective on: 10/16/17

Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Commerce and Insurance

DIVISION: Athletic Commission

SUBJECT: Gloves and Weight Classifications

STATUTORY AUTHORITY: No federal or state law or regulation has mandated the promulgation of this rule.

EFFECTIVE DATES: October 3, 2017 through June 30, 2018

FISCAL IMPACT: None

STAFF RULE ABSTRACT: This proposed rule would make Tennessee's boxing rules regarding weight classes, permissible weight differences and glove weights identical to those promulgated by the Association of Boxing Commissions (ABC). This amendatory language will allow the rules to adapt to changes promulgated by ABC and should result in greater standardization of the regulation of boxing among the states.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

(1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

These rules will only affect boxing events and contests. There were approximately eight (8) boxing events that the Tennessee Athletic Commission issued permits for in 2016.

The promoters, referees, combatants and judges for these events and contests will benefit from these uniform rules because it will eliminate any confusion these parties have when working across state lines. These rules will bring Tennessee's regulations in line with industry standards across the United States.

Compliance with these rules is not expected to have any additional cost to small businesses.

(2) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

There are no expected reporting, recordkeeping or other administrative costs expected in order to remain in compliance with these rule changes. Uniform standards are the majority rules amongst the states. The uniform rules are commonly known and used by promoters, referees, judges and combatants across the United States.

(3) A statement of the probable effect on impacted small businesses and consumers.

The promoters operating in Tennessee often hold contests and events in neighboring states. The judges and referees for boxing events and contests are specially trained and must often be flown in from other parts of the country, meaning they can sometimes be unfamiliar with the particulars of the Tennessee Athletic Commission's rules and laws. The probable effect of these rules is positive in that all parties will be familiar with our rules thereby reducing confusion and the potential for rule violations. Additionally, if Tennessee allows its rules to become materially different from those promulgated by the Association of Boxing Commissions, then Tennessee will place itself at a disadvantage when trying to attract larger events and contests.

(4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

The Commission believes that these changes are not burdensome, intrusive or costly and – as such – there do not appear to be any alternatives that are reasonably expected to be less burdensome.

(5) A comparison of the proposed rule with any federal or state counterparts.

The Tennessee Athletic Commission is directed, by T.C.A. § 68-115-501(b) to be a member of the Association of Boxing Commissions (ABC). The statute directs the Tennessee Athletic Commission use ABC's regulatory guidelines for the promulgation of boxing regulation rules.

Federal law, found at 15 U.S.C.A. § 6307c(a), encourages State boxing commissions to follow ABC's adopted guidelines.

(6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

Exemption from these rules are not expected to be beneficial for small businesses because adoption of these rules are expected to have a net positive benefit for all Tennessee Athletic Commission licensees in the state.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This rule will not have a projected impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

These rule changes would serve to make Tennessee's boxing rules regarding weight classes, permissible weight differences and glove weights identical to those promulgated by the Association of Boxing Commissions (ABC). This amendatory language will allow the rules to adapt to changes promulgated by ABC and should result in greater standardization of the regulation of boxing amongst the states.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. § 68-115-501(b) directs the Tennessee Athletic Commission to use the ABC Regulatory Guidelines to promulgate rules for the regulation of boxing in the state of Tennessee. Pursuant to 15 U.S.C.A. § 6307c(a), federal law encourages states to follow ABC guidelines such as those for weight classes and glove weights.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Licensed promoters, judges, referees and combatants are the most likely to be affected by these rules. All would be expected to urge for the adoption of the rules in order to gain clarity about the regulatory standards the state wishes to enforce and to put the state on even competitive footing when attracting national events and contests.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

There are no known attorney general opinions or judicial rulings that directly relate to this rule.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

This rule is not expected to have a probable increase or decrease in state and local government revenue or expenditures.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Matthew Reddish – Assistant General Counsel
TN Department of Commerce and Insurance

Anthony Glandorf – Chief Counsel
TN Department of Commerce and Insurance

Roxana Gumucio – Executive Director
TN Athletic Commission
TN Department of Commerce and Insurance

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Matthew Reddish – Assistant General Counsel
TN Department of Commerce and Insurance

Anthony Glandorf – Chief Counsel
TN Department of Commerce and Insurance

Roxana Gumucio – Executive Director
TN Athletic Commission
TN Department of Commerce and Insurance

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Matthew Reddish
500 James Robertson Parkway
Nashville, TN 37243
615-770-0089
Matthew.e.reddish@tn.gov

Anthony Glandorf – Chief Counsel
500 James Robertson Parkway
Nashville, TN 37243
615-741-3072
Anthony.Glandorf@tn.gov

Roxana Gumucio
500 James Robertson Parkway
Nashville, TN 37243
615-741-1310
Roxana.Gumucio@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

**Department of State
Division of Publications**

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Nashville, TN 37243
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Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 07-10-17
Rule ID(s): 6563
File Date: 7/5/17
Effective Date: 10/3/17

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Athletic Commission
Division:	Department of Commerce and Insurance Regulatory Boards Division
Contact Person:	Matthew Reddish
Address:	500 James Robertson Parkway, Nashville, TN
Zip:	37243
Phone:	615-770-0089
Email:	Matthew.E.Reddish@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0145-02	Professional Boxing
Rule Number	Rule Title
0145-02-.05	Gloves
0145-02-.08	Weight Classifications

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JUN 30 2017

DEPT OF COMMERCE AND INSURANCE
REGULATORY BOARDS LEGAL DIVISION

**Chapter 0145-02
Professional Boxing
Amendments**

0145-02-.05 GLOVES.

- (1) Glove weights for each weight classification shall be as provided in the Association of Boxing Commissions' (ABC) Regulatory Guidelines for Weight Classes, Weight Differences and Glove Weight Guidelines, as modified July 27, 2005.
- ~~(1) In all weight classifications up to and including light heavyweights, the contestants shall wear gloves weighing not less than eight (8) ounces. In the cruiserweight and heavyweight classifications, the contestants shall wear gloves weighing not less than (10) ounces.~~
- (2) Ends of glove laces shall be securely taped.

Authority: Chapter 1149 of the Public Acts of 2008, § 2 and T.C.A. §68-115-201

0145-02-.08 WEIGHT CLASSIFICATIONS.

Bouts shall be conducted in the weight classifications, and with weight differences as provided in the Association of Boxing Commissions' (ABC) Regulatory Guidelines for Weight Classes, Weight Differences and Glove Weight Guidelines, as modified July 27, 2005.

- ~~(1) Bouts may be conducted in the following weight classifications. The allowable weight differential (in pounds) between contestants within major classifications is indicated in parentheses.~~
- ~~(a) Jr. Flyweight Not over 108 lbs (3)~~
 - ~~(b) Flyweight Not over 112 lbs (3)~~
 - ~~(c) Bantamweight Not over 118 lbs (3)~~
 - ~~(d) Jr. Featherweight Not over 122 lbs (3)~~
 - ~~(e) Featherweight Not over 126 lbs (5)~~
 - ~~(f) Jr. Lightweight Not over 130 lbs (5)~~
 - ~~(g) Lightweight Not over 135 lbs (7)~~
 - ~~(h) Jr. Welterweight Not over 140 lbs (7)~~
 - ~~(i) Welterweight Not over 147 lbs (9)~~
 - ~~(j) Jr. Middleweight Not over 154 lbs (9)~~
 - ~~(k) Middleweight Not over 160 lbs (11)~~
 - ~~(l) Light Heavyweight Not over 175 lbs (12)~~
 - ~~(m) Cruiserweight Not over 195 lbs (12)~~
 - ~~(n) Heavyweight Over 195 lbs.~~

Authority: Chapter 1149 of the Public Acts of 2008, § 2 and T.C.A. §68-115-201

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Steve Hannah	X				
Chad Chilcutt	X				
Donald Wynn	X				
Tracy Davis				X	
Joe Smith	X				

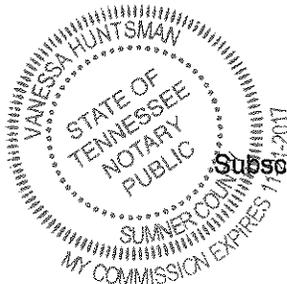
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee Athletic Commission on March 13, 2017 and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 6-7-17

Signature: *Matthew Reddish*

Name of Officer: Matthew Reddish

Title of Officer: Assistant General Counsel



Subscribed and sworn to before me on: 6/7/17

Notary Public Signature: *Vanessa Huntsman*

My commission expires on: 11/1/2017

Rules of the Tennessee Athletic Commission

0145-02-.05 Gloves

0145-02-.08 Weight Classifications

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter
6/27/2017
Date

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Filed with the Department of State on: 7/5/17

Effective on: 10/3/17

Tre Hargett
Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Commerce and Insurance

DIVISION: Private Investigation and Polygraph Commission

SUBJECT: Administration and Enforcement - Course of Study for Internship, Professional Standards, Continuing Education, Qualifying Programs

STATUTORY AUTHORITY: No federal or state law or regulation has mandated the promulgation of this rule.

EFFECTIVE DATES: October 5, 2017 through June 30, 2018

FISCAL IMPACT: None

STAFF RULE ABSTRACT: The proposed rules will eliminate the specificity of polygraph exams required by interns, eliminate the list of questions required to be stated, increases the number of charts produced by polygraph examiners, eliminates the requirement that the examinee sign the final polygraph chart, and adds the American Association of Police Polygraphists to the qualifying programs.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

- 1. The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule;**
There are a total of fifty-six (56) licensed polygraph examiners in the State of Tennessee – all of whom would benefit from the changes to the proposed rules. Any additional interns for the polygraph examiners also stand to benefit from the changes as well.
- 2. The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record;**
There are minimal reporting, recordkeeping, and administrative costs. The changes provide a more efficient internship and polygraph results process and reflect an advance in technology.
- 3. A statement of the probable effect on impacted small businesses and consumers;**
Polygraph examiners will be able to more efficiently conduct exams and provides the additional qualifying programs for continuing education. These rules have no impact on consumers.
- 4. A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business;**
The proposed changes to the existing rules are minimally burdensome and/or intrusive to small businesses.
- 5. A comparison of the proposed rule with any federal or state counterparts; and**
The changes reflect more closely the state law in that the specific types of examinations and lists of questions are not required.
- 6. Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.**
These changes apply to all licensed polygraph examiners.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

There is no expected impact on local government by the promulgation of the proposed rules.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The proposed rules eliminate the specificity of polygraph exams required by interns, eliminate the list of questions required to be stated, increases the number of charts produced by polygraph examiners, eliminates the requirement that the examinee sign the final polygraph chart, and adds the American Association of Police Polygraphists to the qualifying programs.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

There is no federal or state law or regulation mandating promulgation of the rules.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Licensed polygraph examiners will be most affected by the rules in that the proposed changes create a more efficient process to conduct examinations and obtain results. Polygraph association members urge adoption of these rules.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

There are no opinions of the attorney general and reporter or judicial ruling that directly relates to the rule or the necessity to promulgate the rule.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

There is no probable increase or decrease in state and local government revenues and expenditures resulting from the promulgation of these rules of two percent (2%) or greater or five hundred thousand dollars (\$500,000).

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Ashley N. Thomas
Assistant General Counsel
Division of Regulatory Boards
Department of Commerce and Insurance

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Ashley N. Thomas
Assistant General Counsel
Division of Regulatory Boards
Department of Commerce and Insurance

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Ashley N. Thomas
500 James Robertson Parkway
Nashville, TN 37243
(615) 741-3072
Ashley.thomas@tn.gov

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

No additional information requested.

**Department of State
Division of Publications**

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Nashville, TN 37243
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Sequence Number: 07-11-17
Rule ID(s): 6564-6565
File Date: 7/7/17
Effective Date: 10/5/17

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Private Investigation and Polygraph Commission
Division:	Department of Commerce and Insurance
Contact Person:	Ashley N. Thomas, Assistant General Counsel
Address:	500 James Robertson Parkway
Zip:	37243
Phone:	(615) 741-3072
Email:	Ashley.thomas@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1160-1	Administration and Enforcement
Rule Number	Rule Title
1160-1-.05	Course of Study For Internship
1160-1-.06	Professional Standards

Chapter Number	Chapter Title
1160-02	Continuing Education
Rule Number	Rule Title
1160-02-.03	Qualifying Programs

(Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to http://sos.tn.gov/sites/default/files/forms/Rulemaking_Guidelines_August2014.pdf)

Amendments
Chapter 1160-1
Administration and Enforcement

Rule 1160-1-.05 is amended by deleting Paragraph (3) and substituting instead the following:

- (3) During the first month of internship, the intern will:
- (a) Study and become thoroughly knowledgeable of the Tennessee Polygraph Examiners Act, and the rules and regulations promulgated thereunder.
 - (b) Observe the sponsor conduct ~~pre-employment, periodic and specific~~ polygraph examinations, and analyze polygraph charts to demonstrate the intern's understanding of basic test construction, question formulation, and criteria for interpretation of truth and deception in polygraph examinations.
 - (c) Conduct ~~pre-employment, periodic, and specific~~ polygraph examinations under the direct supervision, and in the presence, of the sponsor.
 - (d) Demonstrate proficiency in the operation of polygraph instruments, and be able to problem solve basic mechanical and electrical malfunctions of the instruments.

Authority: T.C.A. §§ 62-27-105 and 62-27-111.

Rule 1160-1-.06 is amended by deleting subpart (2)(a)7.(i) in its entirety so that, as amended, subparagraph (2)(a) shall read:

- (2) Employment examination
- (a) This examination will not cover any of the following areas, unless the examination is administered as a result of an investigation of illegal activity in such area, and the inability to pose relevant questions in relation to such illegal activity would be detrimental to such investigation:
- 1. religious beliefs or affiliations;
 - 2. beliefs or opinions regarding racial matters;
 - 3. political beliefs or affiliations;
 - 4. beliefs, affiliations or lawful activities regarding unions or labor organizations;
 - 5. sexual preferences or activities;
 - 6. any disability covered by the Americans with Disabilities Act; or
 - 7. actions or activities more than five (5) years preceding the date of the examination, except for felony convictions and violations of the Tennessee Drug Control Act, codified in title 39, chapter 17, part 4.

(i) The questions that will be asked on this examination are:

(LIST OF QUESTIONS)

I certify that I have read this form, and that the polygraph examiner whose signature appears below has reviewed the questions listed above with me prior to the examination.

(Signature of Examinee)

(Signature of Examiner)

(Date)

(I) require the examinee to sign and receive the following form(s):

I. Consent to Polygraph examination

Authority: T.C.A. §§ 62-27-105 and 62-27-111.

Rule 1160-1-.06 is amended by deleting the phrase "on at least two (2) separate charts" and substituting instead the phrase "at least three (3) separate times" in subparagraph (8)(a) so that, as amended, paragraph (8) shall read:

- (8) The polygraph examiner shall not render a verbal or written opinion, based on chart analysis, until the examinee:
- (a) has been asked the same pertinent and relevant question(s) on at least two (2) separate charts at least three (3) separate times; and
 - (b) has been afforded a reasonable opportunity to explain any deceptive reactions which are evident on the charts unless the examinee is represented by legal counsel and such counsel requests the results be given to counsel rather than the examinee.

Authority: T.C.A. §§ 62-27-105 and 62-27-111.

Rule 1160-1-.06 is amended by deleting paragraph (9) and renumbering the existing (10) to (9) so that, as amended, paragraph (9) shall read:

- (9) ~~The polygraph examiner shall request the examinee to sign his name to the last polygraph chart conducted.~~
- (10)(9) The polygraph examiner shall ensure that the inquiry, investigation, and interview in a preemployment or employment verification examination shall be restricted to questions relevant to the examinee's suitability for the position of employment.

Authority: T.C.A. §§ 62-27-105 and 62-27-111.

Rule 1160-1-.06 is amended by adding paragraph (10) so that it shall read:

- (10) A polygraph examiner shall obtain signed notification from the examinee on a form proscribed by the Commission prior to the beginning of the examination. The notification shall include the following statements of understanding:
- (a) I understand that I am voluntarily consenting to take this polygraph examination; that I have the right to refuse to take the examination; that I have the right to refuse to answer any question; and that I may terminate the examination at any time.
 - (b) I understand that upon written request to the examiner within thirty (30) days of the examination, accompanied by payment of a reasonable fee not to exceed forty dollars (\$40.00), I shall be provided with a written copy of any opinions or conclusions rendered as a result of the examination within thirty (30) days of receiving the written request.
 - (c) I understand that I or my attorney have/has the right to make an audio or video recording of the examination and pretest interview.
 - (d) I understand that the State of Tennessee Private Investigation and Polygraph Commission is located at 500 James Robertson Parkway, Davy Crockett Tower in Nashville, Tennessee 37243; and
 - (e) I understand that this polygraph examination will be conducted by

_____, located at
(name of examiner)

(address of examiner) Tennessee polygraph examiner license number

_____ or Tennessee polygraph examiner intern permit number

I certify that I have read and understand the above and that I have received a copy of this document.

Date Signature of Examinee

Rules of the Tennessee Private Investigation and Polygraph Commission
Chapter 1160-1; 1160-02;
Rule 1160-1-.05; 1160-1-.06; 1160-02-.03
Authority: T.C.A. §§ 62-27-105, 62-27-111, and 62-27-125.

Chapter 1160-02
Continuing Education

Rule 1160-02-.03 is amended by adding the phrase "the American Association of Police Polygraphists (AAPP)," immediately preceding the phrase "and state polygraph societies" in subparagraph (3)(a) and by inserting the phrase "the AAPP," immediately preceding the phrase "and state polygraph societies" in subparagraph (3)(b) so that, as amended, paragraph (3) shall read as follows:

- (3) Subject to compliance with paragraphs (1) and (2) of this rule, the following are deemed to be qualifying programs.
- (a) professional development programs of the American Polygraph Association (APA), the Tennessee Polygraph Association (TPA), the American Association of Police Polygraphists (AAPP), and state polygraph societies;
 - (b) technical sessions at meetings of the APA, the TPA, the AAPP, and state polygraph societies;
 - (c) university or college courses, provided that:
 - 1. for credit courses, each semester hour credit shall equal fifteen (15) continuing education credit hours, and each quarter hour credit shall equal ten (10) continuing education credit hours;
 - 2. for non-credit short courses, continuing education credit shall equal actual time in class;

Authority: T.C.A. §§ 62-27-105 and 62-27-129.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Minnie Ann Lane			X		
David Brown, Jr.	X				
Larry T. Flair, Sr.	X				
David W. Horton				X	
William Rick Jones				X	
Jerry Richards, Jr.	X				
Dr. Paul A. Ritch	X				
Alan G. Rousseau	X				
Walt Valentine	X				

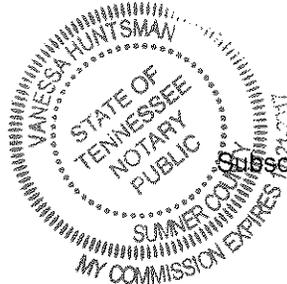
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (board/commission/other authority) on 03/31/2017 (date as mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 05/24/2017

Signature: Ashley W. Thomas

Name of Officer: Ashley W. Thomas

Title of Officer: Assistant General Counsel



Subscribed and sworn to before me on: 05/24/2017

Notary Public Signature: Vanessa Huntsman

My commission expires on: 11/21/2017

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Stutz III
 Herbert H. Stutz III
 Attorney General and Reporter

6/27/2017

Date

Department of State Use Only

Filed with the Department of State on: 7/7/17

Effective on: 10/5/17


Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Commerce and Insurance

DIVISION: Insurance

SUBJECT: Minimum Reserve Standards for Individual and Group Health Insurance Contracts

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 56-1-418, 56-1-901 *et seq.*, 56-1-904, 56-1-906, 56-1-909, and 56-2-301

EFFECTIVE DATES: October 5, 2017 through June 30, 2018

FISCAL IMPACT: None.

STAFF RULE ABSTRACT: This rule updates the minimum reserving standards for group and individual accident and health insurance policies by updating the existing regulation, which contains outdated tables and information to make a direct reference to the National Association of Insurance Commissioners ("NAIC") guidelines prescribed in the valuation manual for policies written on or after January 1, 2017, which are required to be followed pursuant to Tenn. Code Ann. §§ 56-1-901 *et seq.* and further as a condition of the Department's accreditation with the NAIC.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Comment 1

One comment recommended that the Department strike the words "Life and Health" from rule 0780-01-69-.06(1) to reflect the actual name of the referenced NAIC publication, the "Valuation Manual".

Agency Response to Comment 1

The Department agrees that rule 0780-01-69-.06(1) should be modified to strike the words "Life and Health" and so that the rule only refers to the "Valuation Manual." This modification was made in the final rule.

Comment 2

One comment recommended that the Department modify the rule to make the Valuation Manual and the Accounting Practices and Procedures Manual, Appendix A, A-010 applicable to all claims and policies and not limit the applicability of the rule to policies issued on or after January 1, 2017, or to claims incurred on or after January 1, 2017.

Agency Response to Comment 2

The Department has determined that, although it would be worthy of consideration to extend the applicability of the latest version of the Valuation Manual and the Accounting Practices and Procedures Manual, Appendix A-010, applicable to all applicable policies and reserves, such a change would exceed the scope of the rulemaking notice as originally filed. As emergency rules were contemporaneously filed with these rules, it is imperative that permanent rules be promulgated to ensure adherence to NAIC accreditation standards and to not force the industry to revert back to the old reserve standards while a new rulemaking hearing could be scheduled. Once these permanent rules become effective, the Department is willing to work with interested parties in making additional modifications to these rules at an early date that would better address reserve standards for pre-January 1, 2017, claims and policies.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rulemaking process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

The Department of Commerce and Insurance has considered whether the proposed rules in these Rulemaking Hearing Rules are such that they will have an economic impact on small businesses (businesses with fifty (50) or fewer employees). The proposed rules are not anticipated to have a significant impact on small businesses. Tenn. Code Ann. §§ 56-1-418, 56-1-901 *et seq.*, 56-1-904, 56-1-906, 56-1-909 and 56-2-301 authorize the commissioner to promulgate rules establishing minimum reserve standards for health care claims. The proposed rules establish such reserve standards.

The outcome of the analysis set forth in Tenn. Code Ann. § 4-5-403 is as follows:

- (1) These rules only directly affect the reserving practices of insurance companies that underwrite accident and health insurance policies. Virtually all underwriters that retain risk for accident and health claims are typically not considered to be small businesses.
- (2) The projected reporting, recordkeeping and other administrative costs associated with compliance with this proposed rule are not anticipated to increase from that which exists under the current rules these proposed rules amend.
- (3) The effect on small businesses is minimal. The proposed amendment will positively affect consumers by providing for a more stable health insurance marketplace when insurers are required to comply with the most up-to-date reserve requirements.
- (4) There are no alternative methods to make the proposed rule less costly, less intrusive or less burdensome.
- (5) This proposed rule was developed to maintain compliance with NAIC accreditation requirements and is expected to be adopted with substantially similar effect by all other states.
- (6) Only insurance companies retaining health risks are required to comply with this rule. Exempting any company from these proposed rules would place Tennessee residents at risk should their insurance carriers be permitted to carry less than adequate reserves.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This rule will not have an impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This rule updates the minimum reserving standards for group and individual accident and health insurance policies by updating the existing regulation, which contains outdated tables and information to make a direct reference to the National Association of Insurance Commissioners ("NAIC") guidelines prescribed in the valuation manual for policies written on or after January 1, 2017, which are required to be followed pursuant to Tenn. Code Ann. §§ 56-1-901 *et seq.* and further as a condition of the Department's accreditation with the NAIC.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Tenn. Code Ann. §§ 56-1-418, 56-1-901 *et seq.*, 56-1-904, 56-1-906, 56-1-909 and 56-2-301 authorize the Commissioner to promulgate rules establishing minimum reserve standards for health care claims. The proposed rules establish such reserve standards.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

This rule will affect insurance companies selling accident and health insurance in the State of Tennessee. However, as this is an NAIC guideline, all companies are aware of the update and will adjust their reserving practices accordingly.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

None known.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

None.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Michael Humphreys, Assistant Commissioner for Insurance; Rachel Jrade-Rice, Director of Insurance; Brian Hoffmeister, Director of Policy Analysis, Mark Jaquish, Director of Financial Affairs Section; Benjamin Whitehouse, Assistant General Counsel for Insurance.

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Benjamin Whitehouse, Supervising Attorney & Assistant General Counsel for Insurance.

- (H)** Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Davy Crockett Tower, 8th Floor, 500 James Robertson Parkway, Nashville, Tennessee 37243; 615-741-2616; ben.whitehouse@tn.gov

- (I)** Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

**Department of State
Division of Publications**

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Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 07-12-17
Rule ID(s): 12566
File Date: 7/7/17
Effective Date: 10/5/17

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Department of Commerce and Insurance
Division:	Insurance
Contact Person:	Benjamin Whitehouse, Assistant General Counsel for Insurance
Address:	Davy Crockett Tower, 8 th Floor 500 James Robertson Parkway Nashville, Tennessee
Zip:	37243
Phone:	615-741-2616
Email:	Ben.whitehouse@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0780-01-69	Minimum Reserve Standards for Individual and Group Health Insurance Contracts
Rule Number	Rule Title
0780-01-69-.06	Calculation of Reserves as of January 1, 2017
0780-01-69-.07	Effective Date

Redline Changes from emergency rule filed 4/11/17

Rule 0780-01-69-.06
Minimum Reserve Standards for Individual and Group Health Insurance Contracts
Amendments

0780-01-69-.06 Calculation of Reserves as of January 1, 2017

- (1) For policies issued on or after January 1, 2017, the minimum reserve standards for individual and group accident and health policies shall be calculated in accordance with the National Association of Insurance Commissioners Life and Health Valuation Manual in effect for the period at the time of the review of the adequacy of the minimum reserves. The commissioner may also employ other guidelines or procedures the commissioner deems appropriate.
- (2) Claim reserves for policies issued before January 1, 2017 for claims incurred on and after January 1, 2017 shall follow the requirements in the NAIC Accounting Practices and Procedures Manual, Appendix A, A-010.

Authority: T.C.A. §§ 56-1-418, 56-1-901, *et seq.*, 56-1-904, 56-1-906, 56-1-909 and 56-2-301.

Rule 0780-01-69-.07
Minimum Reserve Standards for Individual and Group Health Insurance Contracts
Amendments

0780-01-69-.07 Effective Date

For the purpose of calculating the minimum reserve standards for individual and group accident and health policies issued before January 1, 2017, rule 0780-01-69-.01 through rule 0780-01-69-.05 shall apply. For the purpose of calculating the minimum reserve standards for individual and group accident and health policies issued on or after January 1, 2017, rule 0780-01-69-.06 shall apply. For calculating claim reserves on policies issued before January 1, 2017 for claims incurred on or after January 1, 2017, rule 0780-01-69-.06 shall apply.

Authority: T.C.A. §§ 56-1-418, 56-1-901, *et seq.*, 56-1-904, 56-1-906, 56-1-909 and 56-2-301.

Redline changes from permanent rule in effect prior to filing of emergency rule on 4/11/17

Rule 0780-01-69-.06
Minimum Reserve Standards for Individual and Group Health Insurance Contracts
Amendments

0780-01-69-.06 Calculation of Reserves as of January 1, 2017

- (1) For policies issued on or after January 1, 2017, the minimum reserve standards for individual and group accident and health policies shall be calculated in accordance with the National Association of Insurance Commissioners Valuation Manual in effect for the period at the time of the review of the adequacy of the minimum reserves. The commissioner may also employ other guidelines or procedures the commissioner deems appropriate.
- (2) Claim reserves for policies issued before January 1, 2017 for claims incurred on and after January 1, 2017 shall follow the requirements in the NAIC Accounting Practices and Procedures Manual, Appendix A, A-010.

Authority: T.C.A. §§ 56-1-418, 56-1-901, et seq., 56-1-904, 56-1-906, 56-1-909 and 56-2-301.

Rule 0780-01-69-.07
Minimum Reserve Standards for Individual and Group Health Insurance Contracts
Amendments

0780-01-69-.07 Effective Date

For the purpose of calculating the minimum reserve standards for individual and group accident and health policies issued before January 1, 2017, rule 0780-01-69-.01 through rule 0780-01-69-.05 shall apply. For the purpose of calculating the minimum reserve standards for individual and group accident and health policies issued on or after January 1, 2017, rule 0780-01-69-.06 shall apply. For calculating claim reserves on policies issued before January 1, 2017 for claims incurred on or after January 1, 2017, rule 0780-01-69-.06 shall apply.

Authority: T.C.A. §§ 56-1-418, 56-1-901, et seq., 56-1-904, 56-1-906, 56-1-909 and 56-2-301.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
N/A					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Commissioner of the Department of Commerce and Insurance on 06/30/2017 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 04/11/2017

Rulemaking Hearing(s) Conducted on: (add more dates). 06/08/2017

Date: June 30, 2017

Signature: Julie Mix McPeak

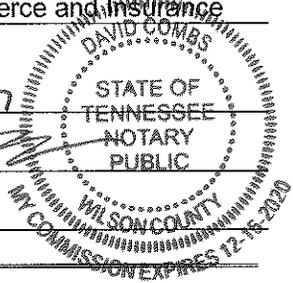
Name of Officer: Julie Mix McPeak

Title of Officer: Commissioner, Department of Commerce and Insurance

Subscribed and sworn to before me on: June 30, 2017

Notary Public Signature: [Signature]

My commission expires on: December 16, 2020



Agency/Board/Commission: Department of Commerce and Insurance

Rule Chapter Number(s): 0780-01-69

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter
7/6/2017
Date

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PUBLICATIONS

Department of State Use Only

Filed with the Department of State on: 7/7/17

Effective on: 10/5/17

Tre Hargett
Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Commerce and Insurance

DIVISION: Insurance

SUBJECT: Unfair Claims Settlement Practices

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 56-2-301, 56-8-101
et seq., 56-8-108, and 56-8-110

EFFECTIVE DATES: October 9, 2017 through June 30, 2018

FISCAL IMPACT: None.

STAFF RULE ABSTRACT: These rules protect customers by setting forth the minimum standards for investigation and disposition of claims arising out of contracts of insurance. These rules provide standards for prompt, fair, and equitable settlements, file and record documentation, and communication timelines.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Comment 1

0780-01-05

It was commented that the words "or certificate" should be removed from these rules as, in some circumstances, the term certificate may reference evidence of insurance rather than a contract of insurance.

Response to Comment 1

The Insurance Division ("Division") disagrees with this comment as the term "certificate" is often used to describe a contract of insurance, and in such circumstances where such a certificate does not constitute a contract of insurance, these Rules would be inapplicable to the non-contemplated certificate. Furthermore, in circumstances, such as when a certificate is issued as coverage on a master insurance policy, inclusion of the term "certificate" in these Rules is necessary to encompass those insurance policies in these regulations. Accordingly, inclusion of the words "or certificate" does not contemplate any such certificate which is not an insurance policy, but is necessary to capture such policies which are described on their face as certificates. Additionally, the terms "policy" and "certificate" are defined at Tenn. Code Ann. § 56-8-102(11) as a "contract of insurance" and the term "insured" is defined as ". . . the party named on a policy or certificate . . ." at Tenn. Code Ann. § 56-8-102(8),

Comment 2

0780-01-05-.01

It was commented by two commenters that the word "personal" in reference to certificate of insurance in the Purpose rule of this this chapter is unclear.

Response to Comment 2

The Division agrees with this comment. The word "personal" has been removed from the rule.

Comment 3

0780-01-05-.04

It was commented that inclusion of the phrase "the following terms are defined unless the context requires otherwise[]" is concerning and defeats the purpose of including definitions in this chapter. The commenter expressed concern that the Division would use this reservation as a means by which it could apply its own definitions as it determined necessary under differing circumstances.

Response to Comment 3

This phrase referenced above is included in the introduction to the definitions for this Chapter to reserve the right to utilize other defined terms included in and limited to an individual rule of this chapter. The inclusion of this language is not intended to allow or assign the Division authority to arbitrarily attribute different definitions to terms. However, in the spirit of making the above outlined intention of the Division clear and to alleviate any further concerns, the language has been deleted and replaced with "As otherwise used in this Chapter, the following definitions apply unless otherwise specifically defined herein." This replacement language should adequately reflect the intent of the Division to allow for the use of other defined terms included within the Rule when applicable.

Comment 4

0780-01-05-.04(1)

It was commented by four commenters that the definition of “agent” is broad and may incorporate individuals not responsible for or involved in the claims handling process for an insurer. The commenters are concerned that individuals not responsible for or involved in the claims handling process may be held accountable for these rules, regardless of their involvement, or lack thereof, in the claims process. An example of the concern expressed by these commenters is that attorneys or vendors contracted only to make repairs could be considered an agent of an insurer in relation to the claims handling process, and thus responsible for compliance with this chapter.

Response to Comment 4

While these rules are intended to regulate the fairness of the actions of any individual engaged in the claims process, irrespective of whether the individual holds an insurance producer license, it is not the intent of this chapter to erroneously apply to agents of an insurer unrelated or lacking the requisite authority to be involved in the claims handling process. The term “agent” appeared in, and has since been removed from, two Rules, 0780-01-05-.04(13) and 0780-01-05-.06(2), which prohibit material misrepresentations of policy benefits, and require acknowledgement of a claim within thirty (30) days of receipt of notice of a claim. In both instances, the Department believes that the rule appropriately applies to an insurer, which under general agency laws would encompass their authorized representatives for the applicable duties, or an insurance producer. Therefore, removal of the term “agent” would not negatively impact the intent of the rule while at the same time alleviating all concerns that the rule would inappropriately apply to agents of an insurer that are not authorized nor traditionally associated with the representation of policy benefits or the claims handling process.

Comment 5

0780-01-05-.04(8)

(the comment was originally applicable to 0780-01-05-.04(9), however, due to subsequent amendments, the subdivisions of the rule were re-numbered.)

It was commented that the definition of “first party claimant” should be drafted to read “. . . asserting a right as *an insured* to payment. . . .”

Response to Comment 5

The Division disagrees with this comment. These rules apply to policies issued to benefit either an insured directly or also a named beneficiary. Accordingly, a first party claimant could be the insured or a named beneficiary. The suggested edit in this comment unnecessarily limits the intent of this definition.

Comment 6

0780-01-05-.04(16)

(the comment was originally applicable to 0780-01-05-.04(17), however, due to subsequent amendments, the subdivisions of the rule were re-numbered.)

It was commented that the definition of “third party claimant” should be drafted to read “. . . asserting a claim against any person *who is insured* under a policy or certificate of an insurer *which may be applicable to the third party claim.*”

Response to Comment 6

The Division disagrees with this comment. The definition of third party claimant is clear. Additions such as the suggested language create ambiguity as to which policies are subject to third party claims. It is important, for the protection of the public, to clearly identify third party claimants, and not to create confusion as to whom these rules may apply.

Comment 7

0780-01-05-.08(5)

It was commented that the need to give first party claimants notice of any applicable statute of limitations is unnecessary as such information is already included in the policy.

Response to Comment 7

The Division disagrees with this comment. The purpose of this rule is to ensure adequate protection is provided

to the consumer. Specific notice of the applicable statute of limitations to a first party claimant prior to its expiration, serves to better protect policyholders who may have misplaced or otherwise not ascertained such information from their policies. In addition, the notice serves as a reminder during the most relevant time that the consumer may lose their right to recovery, and resolves any confusion of rights the consumer may have experienced during the claims settlement process. Additionally, the information contained in each individual policy may vary, and providing this information after the insurer is on notice of a claim by their insured is not unreasonable.

Comment 8

0780-01-05-.10(1)(b)

It was commented that the phrase "uniform appearance," when referring to replacement of an item when the replacement item does not match the item being replaced under a property insurance policy, may be ambiguous. The commenter indicated that a reasonableness factor is already applied to replacement claims. It was further commented that there is concern this may also apply to repairs of damaged items.

Response to Comment 8

The Division disagrees with this comment. The term "reasonably uniform appearance" is sufficiently specific when read in the full context of Rule 0780-01-05-.10(1)(b), as that rule clarifies that this reasonableness assessment must be made when there is a deviation in quantity, color, or size of a replacement item. Read in context, it is clear when such a determination must be made, and a reasonableness assessment is already an industry standard. The Rule specifically states it applies in instances "[w]hen a loss requires replacement of items[.]" and does not contemplate repair claims.

Comment 9

0780-01-05-.11(2)

It was commented that "claimant" is used without reference to whether the rule applies to first or third party claimants, and claimant alone is not a defined term. It was requested that this provision be further clarified by including more specific terms as to whom the rule applies.

Response to Comment 9

The Rule governing life insurance policies is intended to apply to those persons that are legally authorized to submit a claim and receive benefits which could include the insured, the beneficiary or legal representative of the insured, including a member of the insured's immediate family designated by the insured, making a claim under a policy. In response to this comment, the Division has inserted the words "first party" before the word claimant, as this is a defined term within the rule that would encompass all the applicable persons and/or representatives that could submit a claim against a life insurance policy with legal authority to receive information and benefits from the insurer. The use of "first party claimant" instead of "claimant" is also consistent with the terminology used in the remainder of the Rule and Chapter.

Comment 10

0780-01-05-.12

It was commented by two commenters that there exists concern with the notification to third party claimants when the insurer receives notice of a claim or potential claim. It was commented that notifying third party claimants of actions available to them would pose a not insignificant burden and cost on the insurer. Further, there is concern that providing notice to a third party may jeopardize the duty which exists between the insurer and its insured.

Response to Comment 10

The Division disagrees with this comment. By including this language, previously agreed upon by both the Division and the industry in drafting these rules, it is the position of the Division that directing third party claimants, who may or may not understand the claims handling process, to a neutral party such as the Division does not jeopardize any existing duty between an insurer and its insured. Rather, by giving notice to the third party claimant of the Division, the insurer is able to direct any questions that may arise from such a third party claimant to a neutral outside party and negate the risk that the insurer may respond in a way that may jeopardize its relationship with its insured. Furthermore, the notice required under this rule only requires an insurer provide

publically available information, that an unsophisticated consumer may not know exists. (The Department website address in Rule 0780-01-05-.12 has been amended so as to direct the reader to the correct website.) Lastly, such notice to a third party claimant should not pose too substantial a burden on an insurer, as the Division hopes insurers are providing information to third parties that would facilitate a fair and equitable settlement of claims while still protecting the insured's best interests. It is possible, by providing this notice to third party claimants an insurer will cut down on its required communications with third party claimants, and ultimately, its costs.

Comment 11
0780-01-05-.12

The commenter questions whether an "action" for the purposes of this notification is a lawsuit. In the event this action is a lawsuit, the commenter expresses concerns that this notification requirement puts the Division in the position of providing legal advice to these third-party claimants.

Response to Comment 11

The Division disagrees with this comment. The Division does not give legal advice to any entity. Rather, through its Consumer Insurance Services Section, the Division already serves as an unbiased mediator between citizens of the State of Tennessee and insurers while strictly refraining from offering any legal advice. This notice will simply provide consumers with that information.

Comment 12
0780-01-05-.12

It was commented that there is concern as to when an insurer is required to give such notice to third party claimants. Specifically, it is asked whether the insurer must take affirmative steps to find any existing third parties. Additionally, in the event the police report redacts out the personal information of those involved, is the insurer required to seek out this third party in order to give notice?

Response to Comment 12

The Division disagrees with this comment. It is the position of the Division that such a notice is required to the extent the insurer is notified of or reasonably apprised of a third party claimant. Nothing in these rules directs an insurer to affirmatively seek out potential claimants whom the insurer is not notified of pursuant to the definition of "notification or notice of claim" at 0780-01-05-.04(12)

Comment 13
0780-01-05-.12

It was commented that giving notice to third party claimants of their right to contact the Division upon receipt of a third party claim may hinder the claims process. Commenter requests that such notice be required when the insurer denies liability of such a third party claimant's claim.

Response to Comment 13

The Division disagrees with this comment. It is the position of the Division that directing third party claimants, who may or may not understand the claims handling process, to a neutral party such as the Division will not hinder the claims handling process. Rather, by giving notice to the third party claimant of the Division as a resource, the insurer is able to direct any questions that may arise from such a third party claimant to a neutral outside party and avoid unnecessary delay in the claims handling process. The Division does not believe that waiting until the claim has been denied to provide such notice is appropriate, as the rule seeks to protect all impacted third party claimants which could include those still in negotiation with the insurer, that have not been denied.

Comment 14
0780-01-05-.16

It was commented by two commenters that the effective date language, which allows for a six-month period during which an insurer may prepare for compliance with this chapter, may not be afforded to policies which renew during the six-month time period following the effective date of the chapter. The commenter requests the effective date be changed to read ". . . in the event a policy in existence *six months after* the effective date of this

Chapter does not comply. . . ."

Response to Comment 14

The Division agrees with this comment. Language has been added to make clear that those policies issued prior to the effective date of this Chapter, or within the six months following the effective date that an insurer's filings with the Department are not required to comply with the Chapter, may continue in force but may not be renewed six months following the effective date of the Chapter unless they comply with the standards set forth.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rulemaking process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

The Department of Commerce and Insurance has considered whether the proposed rules in these Rulemaking Hearing Rules are such that they will have an economic impact on small businesses (businesses with fifty (50) or fewer employees). The proposed rules are not anticipated to have a significant impact on small businesses. Tenn. Code Ann. §§ 56-2-301, 56-8-101 through 56-8-120, 56-8-108, and 56-8-110 authorize the Commissioner to promulgate rules in order to protect consumers by setting forth the minimum standards for investigation and disposition of claims arising out of contracts of insurance. The proposed rules establish the minimum standards for investigation and disposition of claims arising out of contracts of insurance in the State of Tennessee.

The outcome of the analysis set forth in Tenn. Code Ann. § 4-5-403 is as follows:

- (1) The proposed rules will only apply to insurance companies and persons subject to title 56, chapter 8, part 1, involved in investigating and disposing of claims arising out of contracts of insurance. While there may be some insurance companies considered to be small business affected by these rules, it is estimated that this number is small.
- (2) The projected reporting, recordkeeping, and other administrative costs associated with compliance with this proposed rule are not anticipated to increase from that which exists under current practices.
- (3) The effect on small businesses is minimal. The proposed rules will positively affect consumers by affording them added protections in the insurance claims handling process, and will only affect those insurance companies and persons subject to title 56, chapter 8, part 1, investigating and disposing of claims arising out of contracts of insurance.
- (4) There are no alternative methods to make the proposed rule less costly, less intrusive, or less burdensome.
- (5) These rules reflect the National Association of Insurance Commissioners ("NAIC") model on unfair claims settlement practices in collaboration with the insurance industry in the State of Tennessee.
- (6) Only insurance companies and persons subject to title 56, chapter 8, part 1, investigating and disposing of claims arising out of contracts of insurance are required to comply with this rule. Exempting any company or person from these proposed rules would place Tennessee residents at a risk of being affected by disparate and unfair claims handling practices within the State of Tennessee.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This rule will not have an impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

These rules protect consumers by setting forth the minimum standards for investigation and disposition of claims arising out of contracts of insurance. These rules provide standards for prompt, fair, and equitable settlements, file and record documentation, and communication timelines.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Tenn. Code Ann. § 56-2-301 authorizes the Commissioner of the Department of Commerce and Insurance to promulgate rules and regulations for the purpose of regulating the writing of various kinds and types of insurance. Tenn. Code Ann. §§ 56-8-101 et seq. ("Tennessee Unfair Trade Practices and Unfair Claims Settlement Act of 2009"), state the purpose to regulate trade and claims settlement practices in the business of insurance. Specifically, Tenn. Code Ann. §§ 56-8-108 and 56-8-110 authorize the Commissioner to promulgate rules and regulations declaring certain acts to be unfair trade practices, unfair methods of competition, or deceptive acts or practices in the business of insurance.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

These rules will affect any insurance companies and persons subject to title 56, chapter 8, part 1, involved in investigating and disposing of claims arising out of contracts of insurance.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

Tennessee Attorney General Opinion No. 08-84 addressed the constitutionality of The Tennessee Unfair Trade Practices and Unfair Claims Settlement Act of 2009 prior to its enactment. Specifically, it addressed whether the proposed legislation unlawfully delegated legislative authority to the Commissioner of Commerce and Insurance. The opinion concluded that the General Assembly is authorized to delegate to an administrative agency the authority to implement the expressed policy of particular statutes, including the power to promulgate rules and regulations and that broad authority is necessary to permit the Commissioner to exercise his or her expertise and flexibility to deal with complex and changing conditions within the insurance industry.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

None.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Michael Humphreys, Assistant Commissioner for Insurance; Rachel Jade-Rice, Director of Insurance; Brian Hoffmeister, Director of Policy Analysis; Vickie Trice, Director of Consumer Insurance Services.

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Kaycee Wolf, Chief Counsel for Insurance, Securities, and TennCare Oversight and Jenny Taylor, Assistant General Counsel for Insurance

Davy Crockett Tower, 8th Floor, 500 James Robertson Parkway, Nashville, Tennessee 37243; 615-770-5305;
jenny.taylor@tn.gov.

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

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For Department of State Use Only

Sequence Number: 07-14-17
 Rule ID(s): 6567
 File Date: 7/11/17
 Effective Date: 10/9/17

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Department of Commerce and Insurance
Division:	Insurance
Contact Person:	Jenny Taylor, Assistant General Counsel for Insurance
Address:	The Davy Crockett Tower 500 James Robertson Parkway, 8th Floor Nashville, Tennessee
Zip:	37243
Phone:	615-770-5305
Email:	Jenny.taylor@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0780-01-05	Unfair Claims Settlement Practices
Rule Number	Rule Title
0780-01-05-.01	Purpose
0780-01-05-.02	Scope
0780-01-05-.03	Authority
0780-01-05-.04	Definitions
0780-01-05-.05	File and Record Documentation
0780-01-05-.06	Misrepresentation of Policy Provisions
0780-01-05-.07	Failure to Acknowledge Pertinent Communications
0780-01-05-.08	Standards for Prompt, Fair and Equitable Settlements Applicable to Property and Casualty Insurers
0780-01-05-.09	Standards for Prompt, Fair and Equitable Settlements Applicable to Automobile Insurance
0780-01-05-.10	Standards for Prompt, Fair and Equitable Settlements Applicable to Fire and Extended Coverage Type Policies with Replacement Cost Coverage
0780-01-05-.11	Standards for Prompt, Fair and Equitable Settlements Applicable to All Life Insurers
0780-01-05-.12	Standards for Prompt, Fair and Equitable Settlements Applicable to Claims Made by Third

New

Chapter 0780-01-05
Unfair Claims Settlement Practices

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0780-01-05-01 Purpose.

The purpose of this Chapter is to set forth minimum standards for the investigation and disposition of claims arising under contracts or certificates of insurance issued to residents of the state. It is not intended to cover claims involving workers' compensation or health care. The various provisions of this Chapter are intended to define procedures and practices which constitute unfair claims practices as determined by the commissioner. Nothing herein shall be construed either to create or to imply a private cause of action for violation of this Chapter.

Authority: T.C.A. §§ 56-2-301, 56-8-101 through 56-8-120, 56-8-101(c), 56-8-105, 56-8-108, and 56-8-110.

0780-01-05-02 Scope.

This Chapter applies to all insurers or persons subject to title 56, chapter 8, part 1, that are authorized to sell, transact, or are otherwise engaged in the business of insurance in this state. Specifically, rules 0780-01-05-06 through .10 only apply to property and casualty insurers doing business in this state. Rule 0780-01-05-11 only applies to life insurers doing business in this state.

Authority: T.C.A. §§ 56-2-301, 56-8-101 through 56-8-120, 56-8-108, and 56-8-110.

0780-01-05-03 Authority.

This Chapter is issued pursuant to the authority vested in the commissioner pursuant to T.C.A. §§ 56-8-108 and 56-8-110, the Tennessee Unfair Trade Practices and Unfair Claims Settlement Act

of 2009, T.C.A. title 56, chapter 8, part 1, and other authority conferred by the insurance laws of Tennessee to regulate lines of insurance.

Authority: T.C.A. §§ 56-2-301, 56-8-101 through 56-8-120, 56-8-108, and 56-8-110.

0780-01-05-.04 Definitions.

All definitions contained in the Tennessee Unfair Trade Practices and Unfair Claims Settlement Act of 2009, T.C.A. title 56, chapter 8, part 1, are hereby incorporated by reference. As otherwise used in this Chapter, the following definitions apply unless otherwise specifically defined herein:

(1) "Beneficiary" means the party entitled to receive the proceeds or benefits occurring under the policy of the insured;

(2) "Claim" means:

(a) 1. An oral, written, or electronic submission for payment that is filed by an insured,

on behalf of an insured, or by a third party where the insurer accepts such claims, in accordance with the insurer's reasonable submission standards; and

2. Is sufficient to reasonably establish contractual liability for payment on the part of the insurer;

(b) For the purposes of T.C.A. § 56-8-105, a "claim" does not mean an inquiry by an insured as to the existence of coverage or how a potential claim may affect future premiums or renewability of coverage;

(3) "Claim file" means any retrievable electronic file, paper file, or combination of both, relative to a specific claim made by or on behalf of a claimant with an insurer;

(4) "Commissioner" means the commissioner of the department of commerce and insurance;

(5) "Days" means calendar days unless otherwise noted;

(6) "Department" means the department of commerce and insurance;

(7) "Documentation" or "to be documented" includes, but is not limited to, all pertinent communications, transactions, notes, work papers, claim forms, bills and explanation of benefits forms relative to the claim;

(8) "First party claimant" means an individual, corporation, association, partnership or other legal entity asserting a right to payment directly against an insurer under an insurance policy or insurance contract arising out of the occurrence of the contingency or loss covered by the policy or contract;

(9) "Inquiry" means any communication to an insurance company by an insured or by an insurance producer on behalf of an insured, regarding general terms and conditions of the insured's personal residential property policy, including a communication concerning whether an insured's personal residential property policy provides coverage for a type of event or the process for filing a claim;

(10) "Insurance producer" or "producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance under title 56, chapter 6, part 1;

- (11) "Investigation" means all activities of an insurer directly or indirectly related to the determination of liabilities under coverages afforded by an insurance policy or insurance contract.
- (12) "Notification of claim" or "notice of claim" means any notification, in writing or other means acceptable under the terms of an insurance policy, to an insurer or its producer by a claimant, which reasonably apprises the insurer of the facts pertinent to a claim.
- (13) "Personal residential property policy" means a homeowners insurance policy or a policy otherwise described in T.C.A. §§ 56-5-302(7)(A) and (B).
- (14) "Proof of loss" means written proofs, such as claim forms, or other reasonable evidence of the claim that is required of insureds or beneficiaries submitting the claims.
- (15) "Reasonable explanation" means information sufficient to enable the insured or beneficiary to compare the allowable benefits with policy provisions and determine whether proper payment has been made.
- (16) "Third party claimant" means any person asserting a claim against any person under a policy or certificate of an insurer; and
- (17) "Written communication" includes all correspondence, regardless of source or type, that is materially related to the handling of the claim. Written communication also includes electronic mail (email) when requested by the claimant and when accepted by the insurer. Written communication does not include any privileged communication that is prepared by an attorney employed or retained by an insurer, including, but not limited to, work product or legal opinions.

Authority: T.C.A. §§ 56-2-301, 56-5-302(7)(A) and (B), 56-6-102, 56-7-3403, 56-8-101 through 56-8-120, 56-8-102, 56-8-108, and 56-8-110.

0780-01-05-.05 File and Record Documentation.

Each insurer's claim files for policies or certificates are subject to examination by the commissioner or his or her duly appointed designees. To aid in such examination:

- (1) The insurer shall maintain claim data that is accessible and retrievable for examination. An insurer shall be able to provide the claim number, line of coverage, date of loss, date of payment of the claim, date of denial or date closed without payment. This data must be available for all open and closed claim files for the current year and the five (5) preceding years.
- (2) Documentation shall be contained in each claim file in order to permit reconstruction of the insurer's activities relative to each claim.
- (3) Each relevant document within the claim file shall be noted as to date received, date processed, or date mailed.
- (4) For those insurers that do not maintain hard copy files, claim files must be accessible from cathode ray tube (CRT), micrographics, magnetic tape, electronic databases, or other electronic storage formats, and be capable of duplication to hard copy.

Authority: T.C.A. §§ 56-1-103, 56-1-106, 56-1-408, 56-1-409, 56-1-410, 56-2-301, 56-8-101 through 56-8-120, 56-8-104(10), 56-8-107, 56-8-108, and 56-8-110.

0780-01-05-.06 Misrepresentation of Policy Provisions.

- (1) No insurer shall fail to fully disclose, upon request, to first party claimants all pertinent benefits, coverages or other provisions of a policy or contract under which a claim is presented.
- (2) No producer shall misrepresent to named insureds benefits, coverages or other provisions of any insurance policy or insurance contract when such benefits, coverages or other provisions are pertinent to a claim.
- (3) A claim shall not be denied on the basis of failure to provide access to property unless provided for under the terms of the policy and documented in the claim file.
- (4) No insurer shall deny a claim based upon the failure of a first party claimant to give written notice of loss within a specified time limit unless the written notice is a written policy condition.
- (5) No insurer shall indicate to a first party claimant on a payment draft, check, or in any accompanying letter that said payment is "final" or "a release" of any claim unless the policy limit has been paid or there has been a compromise settlement agreed to by the first party claimant and the insurer as to coverage and amount payable under the contract.
- (6) No insurer shall issue checks or drafts in partial settlement of a loss or claim under a specific coverage that contains language purporting to release the insurer or its insured from total liability.

Authority: T.C.A. §§ 56-2-301, 56-8-101 through 56-8-120, 56-8-104, 56-8-105, 56-8-108, and 56-8-110.

0780-01-05-.07 Failure to Acknowledge Pertinent Communications.

- (1) Every insurer, upon receiving notification of a claim, shall, within thirty (30) days, acknowledge the receipt of such notice unless payment is made within that period of time. If an acknowledgement is made by means other than writing, an appropriate notation of the acknowledgement shall be made in the claim file of the insurer and dated.
- (2) Pursuant to T.C.A. § 56-1-106, if the department makes a request for information from an insurer concerning a complaint filed against the insurer, the insurer must respond to the request within thirty (30) days from the date the request is received by the insurer.
- (3) An appropriate reply shall be made within thirty (30) days on all other pertinent communications from a first party claimant which reasonably suggest that a response is expected.
- (4) Every insurer, upon receiving notification of claim, shall promptly provide necessary claim forms, instructions and reasonable assistance so that first party claimants can comply with the policy conditions and the insurer's reasonable requirements. Compliance with this paragraph within thirty (30) days of notification of a claim shall constitute compliance with paragraph 0780-01-05-.07(1).

Authority: T.C.A. §§ 56-1-106, 56-2-301, 56-8-101 through 56-8-120, 56-8-105, 56-8-108, and 56-8-110.

0780-01-05-.08 Standards for Prompt, Fair and Equitable Settlements Applicable to Property and Casualty Insurers.

- (1) Within sixty (60) days after receipt by the insurer of properly completed and executed proofs of loss and such information or documents required under the policy, the first party

claimant shall be advised of the acceptance or denial of liability for the claim by the insurer. No insurer shall deny a claim without providing a basis for the denial. Upon request, any denial must be given to the first party claimant in writing and the claim file of the insurer shall contain documentation of the denial as required by rule 0780-01-05-05.

- (a) Where there is a reasonable basis supported by specific information available for review by the department that the first party claimant has fraudulently caused, contributed to, or misrepresented the loss, the insurer is relieved from the requirements of paragraph 0780-01-05-08(1); provided, however, that the first party claimant shall be advised of the acceptance or denial of liability for the claim within a reasonable time for full investigation after receipt by the insurer of a properly completed and executed proof of loss.
- (2) If the insurer needs more time to determine whether liability for a first party claim should be accepted or denied, it shall so notify the first party claimant within sixty (60) days after receipt of the proofs of loss and such information or documents required under the policy, giving the reasons more time is needed. If the investigation remains incomplete, the insurer shall, sixty (60) days from the initial notification and every sixty (60) days thereafter, send to the first party claimant a letter setting forth the reasons additional time is needed for investigation.
- (a) Where there is a reasonable basis supported by specific information available for review by the department for suspecting that the first party claimant has fraudulently caused, contributed to, or misrepresented the loss, the insurer is relieved from the requirements of paragraph 0780-01-05-08(2); provided, however, that the claimant shall be advised of the acceptance or denial of liability for the claim by the insurer within a reasonable time for full investigation after receipt by the insurer of a properly completed and executed proof of loss.
- (3) The insurer shall, within thirty (30) days after concluding a coverage investigation, notify the first party claimant of the findings of the investigation. Paragraphs 0780-01-05-08(1) and (2) shall apply at the time the notice of investigation closure is sent.
- (4) Insurers shall not fail to settle first party claims on the basis that responsibility for payment should be assumed by others except as may otherwise be provided by policy provisions.
- (5) Insurers shall give notice of an applicable statute of limitations to first party claimants at least thirty (30) days before the date on which such statute of limitations may expire.
- (6) The insurer shall tender payment within thirty (30) days of affirmation of liability, if the amount of the claim is determined and not in dispute, unless the policyholder does not want payment within thirty (30) days.
- (7) No insurer shall request or require any insured to submit to a polygraph examination unless authorized under the applicable insurance contracts and state law.
- (8) If, after an insurer denies a claim in its entirety, the first party claimant objects in writing to such denial, the insurer shall notify the first party claimant in writing that he or she may file a complaint with the department, Consumer Insurance Services, 500 James Robertson Parkway, Nashville, Tennessee 37243, 1-800-342-4029, or may submit the complaint request for review electronically to that section's complaint link for insurance complaints, currently found at: <https://tn.gov/commerce/topic/commerce-file-a-complaint>.
- (9) An insurer shall notify a policyholder of his or her right to choose a vendor to complete repairs of damages covered under the policy, unless use of a specified vendor is

provided pursuant to the terms of the policy. If a notice is made by means other than writing, an appropriate notation of the notice shall be made in the claim file of the insurer and dated.

- (10) No insurer shall cancel a personal residential property policy in effect for sixty (60) days or more, if the sole reason for the cancellation of the policy is that a claim is pending with the insurer.
- (11) Pursuant to T.C.A. § 56-7-113, no insurance company shall increase a premium or cancel a personal residential property policy solely on the basis of an inquiry or inquiries by an insured regarding the insured's personal residential property policy or a loss under the policy.

Authority: T.C.A. §§ 56-2-201, 56-2-202, 56-2-301, 56-7-113, 56-8-101 through 56-8-120, 56-8-105, 56-8-108, and 56-8-110.

0780-01-05-.09 Standards for Prompt, Fair and Equitable Settlements Applicable to Automobile Insurance.

- (1) When the insurance policy provides for the adjustment and settlement of first party automobile total losses on the basis of actual cash value or replacement with another of like kind and quality, one of the following methods shall apply at the discretion of the insurer:
 - (a) The insurer may elect to offer a replacement automobile that is at least comparable in that it will be by the same manufacturer, same or newer year, similar body style, similar options and mileage as the insured vehicle and in as good or better overall condition and available for inspection at a licensed dealer within a reasonable distance of the insured's residence. The insurer shall pay all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the automobile, paid at no cost other than any deductible provided in the policy. The offer and any rejection thereof must be documented in the claim file.
 - (b) The insurer may elect a cash settlement based upon the actual cost, less any deductible provided in the policy, to purchase a comparable automobile including all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of a comparable automobile. Such cost may be derived from:
 - 1. The cost of two or more comparable automobiles in the local market area when comparable automobiles are available or were available within the last ninety (90) days to consumers in the local market area; or
 - 2. The cost of two (2) or more comparable automobiles in areas proximate to the local market area, including the closest major metropolitan areas within or without the state, that are available or were available within the last ninety (90) days to consumers when comparable automobiles are not available in the local market area pursuant to part 0780-01-05-.09(1)(b)1. above; or
 - 3. One (1) of two (2) or more quotations obtained by the insurer from two (2) or more licensed dealers located within the local market area when the cost of comparable automobiles are not available pursuant to parts 0780-01-05-.09(1)(b)1. and (1)(b)2. above; or

4. Any source for determining statistically valid fair market values that meet all of the following criteria:
- (i) The source shall give primary consideration to the values of vehicles in the local market area and may consider data on vehicles outside the area.
 - (ii) The source's database shall produce values for at least eighty-five percent (85%) of all makes and models for the last fifteen (15) model years, taking into account the values of all major options for such vehicles; and
 - (iii) The source shall produce fair market values based on current data available from the area surrounding the location where the insured vehicle was principally garaged or a necessary expansion of parameters (such as time and area) to assure statistical validity.
- (c) When a first party claimant's automobile total loss is settled on a basis which deviates from the methods described in subparagraphs 0780-01-05-09(1)(a) and (1)(b), the deviation must be supported by documentation giving particulars of the automobile condition. Any deductions from the cost, including deduction for salvage, must be as specific as reasonably possible, and specific and appropriate as to dollar amount, and shall be documented in the claim file as required by rule 0780-01-05-05. The basis for the settlement shall be fully explained to the first party claimant.
- (2) Insurers shall not require a first party claimant to travel an unreasonable distance either to inspect a replacement automobile, to obtain a repair estimate or to have the automobile repaired at a specific repair shop.
- (3) Insurers shall, upon the first party claimant's request, include the first party claimant's deductible, if any, in subrogation demands. Subrogation recoveries shall be shared on a proportionate basis with the first party claimant, unless the deductible amount has been otherwise recovered. No deduction for expenses can be made from the deductible recovery unless an outside attorney is retained to collect such recovery. The deduction may then be for only a pro rata share of the allocated loss adjustment expense.
- (4) Vehicle Repairs. If partial losses are settled on the basis of a written estimate prepared by or for the insurer, the insurer shall supply the insured a copy of the estimate upon which the settlement is based. The estimate prepared by or for the insurer shall be reasonable, in accordance with applicable policy provisions, and of an amount which will allow for repairs to be made in a workmanlike manner. If the insured subsequently claims, based upon a written estimate which he or she obtains, that necessary repairs will exceed the written estimate prepared by or for the insurer, and differences remain unresolved during the course of the repair or negotiation process, the insurer shall:
- (a) Pay the difference between the written estimate and a higher estimate obtained by the insured; or
 - (b) Promptly provide the insured with the name of at least one (1) repair shop in areas proximate to the local market area, including the closest major metropolitan areas within or without the state, that will make the repairs for the amount of the written estimate, not considering the cost of supplemental or additional repairs which may be uncovered as part of the repair process. The insurer shall assure that such repairs provided by such repairers designated by

the insurer are performed in a workmanlike manner. The insurer shall maintain documentation of all such communications. If such communication is made by means other than writing, an appropriate notation of the communication shall be made in the claim file of the insurer and dated.

- (5) When the amount claimed is reduced because of betterment or depreciation, all information for such reduction shall be contained in the claim file. The deductions shall be itemized and specified as to dollar amount and shall be appropriate for the amount of deductions.
- (6) When the insurer elects to repair and designates a specific repair shop for automobile repairs, the insurer shall cause the damaged automobile to be restored to its condition prior to the loss at no additional cost to the claimant other than as stated in the policy and within a reasonable period of time.
- (7) Towing. Unless the insurer has provided an insured with the name of a specific towing company or provides a roadside assistance program, prior to the insured's use of another towing company, the insurer shall pay any and all reasonable towing charges irrespective of the towing company used by the insured, subject to any applicable policy provisions.
- (8) Storage. The insurer shall provide reasonable notice to an insured prior to termination of payment for reasonable automobile storage charges and documentation of the denial as required by rule 0780-01-05-05. Such insurer shall provide reasonable time for the insured to remove the vehicle from storage prior to the termination of payment, subject to any applicable policy provisions.
- (9) Betterment deductions are allowable only if the deductions:
 - (a) Reflect a measurable decrease in market value attributable to the poorer condition of, or prior damage to, the vehicle;
 - (b) Any deductions set forth in subparagraph 0780-01-05-09(9)(a) above must be measurable, itemized, specified as to dollar amount, and documented in the claim file; and
 - (c) No insurer shall require the insured or first party claimant to supply parts for replacement.

Authority: T.C.A. §§ 56-2-301, 56-8-101 through 56-8-120, 56-8-105, 56-8-108, and 56-8-110.

0780-01-05-10 Standards for Prompt, Fair and Equitable Settlements Applicable to Fire and Extended Coverage Type Policies with Replacement Cost Coverage.

- (1) When the policy provides for the adjustment and settlement of first party losses based on replacement cost, the following shall apply:
 - (a) When a loss requires repair or replacement of an item or part, any consequential physical damage incurred in making such repair or replacement not otherwise excluded by the policy, shall be included in the loss. The insured shall not have to pay for any cost except for betterment and any applicable deductible under the policy.
 - (b) When a loss requires replacement of items and the replaced items do not match in quality, color or size, the insurer shall replace items so as to conform to a reasonably uniform appearance according to the applicable policy provisions.

This applies to interior and exterior losses. The insured shall not bear any cost over the applicable deductible, if any.

(2) Actual Cash Value:

(a) When the insurance policy provides for the adjustment and settlement of losses on an actual cash value basis on residential fire and extended coverage, the insurer shall determine actual cash value as follows: replacement cost of property at time of loss less depreciation, if any. Upon the insured's request, the insurer shall provide a copy of the claim file worksheets detailing any and all deductions for depreciation.

(a) In cases in which the insured's interest is limited because the property has nominal or no economic value, or a value disproportionate to replacement cost less depreciation, the determination of actual cash value as set forth above is not required. In such cases, the insurer shall provide, upon the insured's request, a written explanation of the basis for limiting the amount of recovery along with the amount payable under the policy.

Authority: T.C.A. §§ 56-2-301, 56-8-101 through 56-8-120, 56-8-108, and 56-8-110.

0780-01-05-.11 Standards for Prompt, Fair and Equitable Settlements Applicable to Life Insurers.

(1) Every insurer, upon receiving due notification of a claim filed, shall, within thirty (30) days of the notification, provide necessary claim forms, instructions and reasonable assistance so the first party claimant can properly comply with company requirements for filing a claim.

(2) Upon receipt of proof of loss from a first party claimant, the insurer shall begin any necessary investigation of the claim within thirty (30) days.

(3) The insurer's standards for claims processing shall be such that notice of claim or proof of loss submitted against one policy issued by that insurer shall fulfill the insured's obligation under any and all similar policies issued by that insurer and specifically identified by the insured to the insurer to the same degree that the same form would be required under any similar policy. If additional information is required to fulfill the insured's obligation under similar policies, the insurer may request the additional information. When it is apparent to the insurer that additional benefits would be payable under an insured's policy upon additional proofs of loss, the insurer shall communicate to and cooperate with the insured in determining the extent of the insurer's additional liability. Life insurers shall also operate in accordance with T.C.A. §§ 56-7-3401 through 56-7-3406 by searching for persons as defined in T.C.A. § 56-7-3403(8) against the social security death master file (DMF) and notifying beneficiaries about potential claims such persons may have against the company.

(4) The insurer shall affirm or deny liability on claims within a reasonable time and shall offer payment within thirty (30) days of affirmation of liability if the amount of the claim is determined and not in dispute. If portions of the claim are in dispute, the insurer shall tender payment for those portions that are not disputed within thirty (30) days.

(5) If a claim remains unresolved for sixty (60) days from the date proof of loss is received, the insurer shall provide the insured or, when applicable, the insured's beneficiary, or the insurance producer or other designated representative responsible for communicating with the beneficiary, with a reasonable explanation for the delay. If the investigation remains incomplete, the insurer shall, sixty (60) days from the date of initial notification

and every sixty (60) days thereafter, send to the claimant a letter setting forth the reasons additional time is needed for investigation.

- (6) The insurer shall acknowledge and respond within thirty (30) days to any written communications relating to a pending claim.
- (7) When a claim is denied, written notice of denial shall be sent to the first party claimant within thirty (30) days of the determination. The insurer shall reference the policy provision, condition or exclusion upon which the denial is based.
- (8) No insurer shall deny a claim upon information obtained in a telephone conversation or personal interview with any source unless the telephone conversation or personal interview is documented in the claim file.
- (9) No insurer shall indicate to a first party claimant on a payment draft, check or in any accompanying letter that said payment is "final" or "a release" of any claim unless the policy limit has been paid or there has been a compromise settlement agreed to by the first party claimant and the insurer as to coverage and amount payable under the policy.
- (10) Pursuant to T.C.A. § 56-1-106, if the department makes a request for information from an insurer concerning a complaint filed against the insurer, the insurer must respond to the request within (30) days from the date the request is received by the insurer.
- (11) If, after an insurer denies a claim in its entirety, the first party claimant objects in writing to such denial, the insurer shall notify the first party claimant or their legally authorized representative in writing that he or she may file a complaint with the department, Consumer Insurance Services, 500 James Robertson Parkway, Nashville, Tennessee 37243, 1-800-342-4029, or may submit the request for review electronically to that section's website, currently found at: <https://tn.gov/commerce/topic/commerce-file-a-complaint>.

Authority: T.C.A. §§ 56-1-106, 56-2-301, 56-7-3401 through 56-7-3406, 56-8-101 through 56-8-120, 56-8-105, 56-8-108, and 56-8-110.

0780-01-05-.12 Standards for Prompt, Fair and Equitable Settlements Applicable to Claims Made by Third Party Claimants.

Upon receipt of notice or notification of a claim or potential claim from a third party claimant, the insurer shall notify the third party claimant in writing that he or she may obtain information regarding any actions available to a third party claimant by contacting the department, Consumer Insurance Services, 500 James Robertson Parkway, Nashville, Tennessee 37243, 1-800-342-4029, or electronically to that section's website, currently found at: <https://tn.gov/commerce/topic/commerce-file-a-complaint>.

Authority: T.C.A. §§ 56-2-301, 56-8-101 through 56-8-120, 56-8-105, 56-8-108, and 56-8-110.

0780-01-05-.13 Penalties.

Violations of this Chapter shall be enforced against any person subject to the Tennessee Unfair Trade Practices and Unfair Claims Settlement Act of 2009, T.C.A. title 56, chapter 8, part 1, as provided therein, and any other applicable enforcement authority conferred by the insurance laws of Tennessee related to or incorporating violations of that Act, rules promulgated by the commissioner, or the subject matter addressed by this Chapter, including, but not limited to, T.C.A. §§ 56-2-305, 56-6-112, 56-6-410, 56-6-910, 56-7-3405, 56-8-103, 56-8-109, 56-8-111.

Authority: T.C.A. §§ 56-2-301, 56-2-305, 56-6-112, 56-6-410, 56-6-910, 56-7-3405, 56-8-101 through 56-8-120, 56-8-103, 56-8-108, 56-8-109, 56-8-110, and 56-8-111.

0780-01-05- 14 Severability.

If any provision of this Chapter or the application thereof to any person or circumstance is for any reason held to be invalid by a court, the remainder of the Chapter and the application of such provisions to other persons or circumstances shall not be affected thereby.

Authority: T.C.A. §§ 56-2-301, 56-8-101 through 56-8-120, 56-8-108, and 56-8-110.

0780-01-05- 15 Waiver.

- (1) Unless otherwise required by law, in the event of a catastrophic occurrence, as determined by the commissioner, in the State of Tennessee, the commissioner may waive the rules arising from, or otherwise affected by, the catastrophic occurrence as he or she deems necessary.
- (2) The commissioner may waive these rules at his or her discretion in the event an insurer cannot comply or lacks the means to comply with these rules, unless statute mandates that no exception may be granted.

Authority: T.C.A. §§ 56-2-301, 56-8-101 through 56-8-120, 56-8-108, and 56-8-110.

0780-01-05- 16 Effective Date.

Insurers shall meet the requirements of this Chapter within six (6) months after the effective date of this Chapter. Policies, forms, and rates on file with the department must comply with this Chapter within six (6) months after the effective date of this Chapter. In the event a policy in existence six (6) months after the effective date of this Chapter does not comply, the policy may run through the end of its term, but it may not be renewed without first making the policy comply with this Chapter.

Authority: T.C.A. §§ 56-2-301, 56-2-305, 56-5-305, 56-7-2311, 56-8-101 through 56-8-120, 56-8-108, and 56-8-110.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Commissioner (board/commission/ other authority) on 06/06/2017 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 07/25/16

Rulemaking Hearing(s) Conducted on: (add more dates). 09/28/16



Date: 6/6/17

Signature: Julie Mix McPeak

Name of Officer: Julie Mix McPeak

Title of Officer: Commissioner of the Department of Commerce and Insurance

Subscribed and sworn to before me on: 6/6/17

Notary Public Signature: Denise M Lewis

My commission expires on: 1/15/20

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
 Herbert H. Slatery III
 Attorney General and Reporter
7/6/2017
 Date

Department of State Use Only

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 PUBLICATIONS

Filed with the Department of State on: 7/11/17

Effective on: 10/9/17

Tre Hargett
 Tre Hargett
 Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Commerce and Insurance

DIVISION: Regulatory Boards
Board of Examiners for Land Surveyors

SUBJECT: Registration Applications and Examinations; Fee Changes

STATUTORY AUTHORITY: The promulgation of this rule amendment is not mandated by any federal or state law or regulation.

EFFECTIVE DATES: October 25, 2017 through June 30, 2018

FISCAL IMPACT: None.

STAFF RULE ABSTRACT: Clarifies the board's role in recommending an applicant for state specific exams. The Board no longer pre approves applicants for the FS exam. The rules allow the Board to delegate exam administration to third party vendors. The fees section of these rules doesn't directly result in the applicant incurring any increased fees by the Board but that fees are set by the Board choosing a vendor.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

- 1. The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule;**

These rules have a negligent expected impact on small business owners in the state. The impact will mostly impact individuals who are applying to be land surveyors in the State. To the extent that some of these individuals may work for small land surveying businesses is unknown but possible.

- 2. The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record;**

No new professional skills will be required to comply with this Rule.

- 3. A statement of the probable effect on impacted small businesses and consumers;**

There is likely to be no effect on consumers or small businesses. These rules update the way that applicants test to reflect the shift to testing vendors, and allowing the national test to be administered by the National Council of Engineering and Surveying (NCEES).

- 4. A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business;**

Since there is no expected impact on small businesses, less burdensome regulations are not needed.

- 5. A comparison of the proposed rule with any federal or state counterparts; and**

There is no counterpart that would compare. There is no federal regulation of state testing for land surveying. Each state is currently changing their procedures for testing to allow NCEES to offer the national test, while determining the best way to move forward on their individual tests.

- 6. Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.**

No exemption is required since the rules are not expected to impact small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This Rule is not expected to impact local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Clarifies the board's role in recommending an applicant for state specific exams. The Board no longer pre approves applicants for the FS exam. The rules allow the Board to delegate exam administration to third party vendors. The fees section of these rules doesn't directly result in the applicant incurring any increased fees by the Board but that fees are set by the Board choosing a vendor.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

None known.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The Board is responding to the needs of potential applicants by crafting rules that would allow more flexible testing dates and sites. This Department has encouraged all Boards and Commissions to consider the most efficient way to administer testing to applicants. Since NCEES does not offer state specific exams, the Board wants to ensure their rules will allow administration of the state specific test in the most efficient way possible. The Board urges the adoption of this rule.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

None Known.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

None.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Laura E. Martin

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Laura E. Martin

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Laura E. Martin
500 James Robertson Parkway Davy Crockett Tower,
Nashville, Tennessee 37243
(615) 253-3702

Laura.Martin@tn.gov

(l) Any additional information relevant to the rule proposed for continuation that the committee requests.

None known.

Department of State**Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower

Nashville, TN 37243

Phone: 615-741-2650

Email: publications.information@tn.gov**For Department of State Use Only**Sequence Number: 07-37-17Rule ID(s): 6581File Date: 7/27/17Effective Date: 10/25/17

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	The Tennessee Board of Examiners for Land Surveyors
Division:	Regulatory Boards
Contact Person:	Laura Martin
Address:	500 James Robertson Parkway
Zip:	37243
Phone:	615-741-3072
Email:	Laura.Martin@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0820-01	Rules of Tennessee State Board of Examiners for Land Surveyors
Rule Number	Rule Title
0820-01-.02	Applications
0820-01-.03	Examinations
0820-01-.04	Syllabus of the Examinations
0820-01-.05	Fees

**RULES
OF
TENNESSEE BOARD OF EXAMINERS
FOR LAND SURVEYORS**

**CHAPTER 0820-01
RULES OF TENNESSEE STATE BOARD OF
EXAMINERS FOR LAND SURVEYORS**

0820-01-.01 Meetings	0820-01-.06 Civil Penalties
0820-01-.02 Applications	0820-01-.07 Certification for Military Members and Spouses
0820-01-.03 Examinations	0820-01-.08
0820-01-.04 Syllabus of Examinations	through
0820-01-.05 Fees	0820-01-.16 Repealed

0820-01-.02 APPLICATIONS.

- (1) An application for registration shall be accompanied by two (2) survey plats, each with a written survey legal description, and prepared by the applicant under the individual supervision of a registered land surveyor. Such plats must be recent enough to comply with all current applicable requirements of Chapter 0820-03 Standards of Practice and must bear the seal and signature of the supervising registered land surveyor.
- (2) If two (2) or more Board members recommend examination of an applicant, such examination will be required for the Practice of Land Surveying (PS) or of Fundamentals of Land Surveying (FS) exam, such applicant is approved for the necessary examination.
- (3) An applicant may be requested to appear before the Board if two (2) or more Board members declare that such applicant does not appear to meet educational and/or experience requirements.
- (4) An applicant may appear at a regular meeting of the Board to discuss his or her qualifications, provided that he or she makes timely written request to the Administrator of the Board.
- (5) Where the Board has delegated authority to outside vendors to administer an examination, the applicant shall be responsible for supplying the vendor with the materials the vendor requires for examination.

Authority: T.C.A. §§62-18-105(d) and 62-18-106(c). **Administrative History:** Original rule filed June 6, 1974; effective July 6, 1974. Repeal and new rule filed November 18, 1985; effective February 12, 1986. Amendment filed November 20, 1991; effective January 4, 1992.

0820-01-.03 EXAMINATIONS.

- (1) Examinations shall be conducted at such times and locations as determined by the Board, or by entities that the Board has delegated authority to conduct examinations for eligible applicants.
- (2) The examination shall consist of two (2) parts. The minimum passing grade on the State Exam shall be seventy percent (70%) on each of the two (2) subparts thereof. The minimum passing grade on the part prepared by the National Council of Engineering and Surveying (NCEES) shall be as established by the NCEES
- (3) The minimum passing grade on the examinations administered by the National Counsel of Examiners for Engineering and Surveying (NCEES) shall be as established by NCEES.

(a) Applicant must comply with NCEES policies when taking the examinations administered by NCEES.

~~(4)~~(3) Any applicant who fails to appear for a scheduled Tennessee State Specific examination will be deemed to have failed such examination, unless the applicant:

- (a) Notifies the Board in writing at least thirty (30) days in advance that the applicant wishes not to take the examination; or
- (b) Shows good cause (such as illness or emergency) satisfactory to the Board for such failure to appear.

~~(5)~~(4) Any applicant whose failure to appear for a scheduled examination is excused under paragraph ~~(3)~~ of this rule may take the next scheduled examination without paying an additional examination fee.

Authority: T.C.A. §§62-18-105 and 62-18-111. **Administrative History:** Original rule filed June 6, 1974; effective July 6, 1974. Repeal and new rule filed November 18, 1985; effective February 12, 1986.

0820-01-.04 SYLLABI OF THE EXAMINATIONS.

- (1) The Tennessee State Specific examination is designed to test the applicant's knowledge of land surveying and to ascertain if his or her judgment, experience, and technical knowledge are sufficient to safeguard life, health, and property. The examination will include but not be limited to the following subjects:
 - (a) Mathematics applied to land surveying: The applicant should be able to apply the principles of algebra, plane geometry, and trigonometry to land surveying problems of regular, irregular, and curvilinear boundaries.
 - (b) Fundamentals of surveying: The applicant should have a thorough knowledge of the legal aspects of land surveying and land surveying terms; consistency of angular and linear measurements, the interrelation of errors; steel tape corrections; instrument care and adjustment, the Tennessee Coordinate System; astronomical observations for azimuth; meridian or longitude and parallel of latitude; magnetic declination; magnetic variation; and magnetic bearings, true bearings, differential leveling; profile leveling; cross sections; cut sheets; the theory and use of stadia; topographic surveying; and control surveys by triangulation and traverse, for both ground and aerial surveys.
 - (c) Surveying of areas for their correction, determination and description: The applicant should be able to plot and write property descriptions, obtain property descriptions from legal records and lay out and monument such property; he or she should know the relative weights legally to be given monuments, distance, bearings, angles, and areas in the redetermination of old boundaries; he should be able to determine the directions of lines of a traverse by the deflection angles and by azimuths; he or she should be able to compute latitudes and departures, determine missing data from descriptions, adjust a traverse for closure error, compute coordinates of traverse points, and compute areas of irregular parcels including those bounded by curvilinear courses.
 - (d) Surveying of areas for the conveyancing of land and for the establishment and reestablishment of internal and external land boundaries, and the plotting of land and subdivisions thereof: The applicant should be able to divide areas into smaller tracts; determine the internal and external boundaries thereof; determine missing data from descriptions; lay out and plot roads, street and sidewalks, topography, and contours setting forth road grades, and determining drainage on the surface, reducing topographic notes; interpolate contours from elevations; prepare topographic maps using ground surveys and aerial surveys with photogrammetric methods of compiling aerial photographs; and compute horizontal curves and vertical curves.
- (2) The Examination administered by NCEES shall be determined by NCEES. Applicants should contact NCEES to obtain information regarding the syllabus of NCEES examination.

Authority: T.C.A. §§62-18-105 and 62-18-111. **Administrative History:** Original rule filed June 6, 2974; effective July 6, 1974. Repeal and new rule filed November 18, 1985; effective February 12, 1986.

0820-01-.05 FEES. The following schedule of fees is hereby established:

(1) The following schedule of fees is hereby established for application, registration, renewal and late penalties:

Application Fee.....	\$200.00
(a) Application fee	
1. Tennessee State Specific.....	\$200.00
2. Professional Land Surveying in Training.....	\$25.00
(b) Certificate of Registration.....	\$100.00
(c) Biennial Renewal.....	\$280.00
(d) Late Renewal Penalty (per month or fraction thereof).....	\$20.00

(2) A candidate shall schedule the Fundamentals of Land Surveying (FS) and/or the practice of Land Surveying (PS) examinations directly with NCEES and pay the examination fee directly to NCEES required for taking such examination.

(3) A candidate shall schedule the Tennessee State Specific Examination with the Board's designated testing agency and pay an examination fee that will include any fees charged by the designated testing agency. The Board shall set the examination fee through choosing a contractor from a solicitation process pursuant to Tenn. Ann. Code § 12-3-501, et seq. and the Comprehensive Rules and Regulations of the Central Procurement Office found at Tenn. Comp. R. & Reg. Chapter 0690-03-01, or any other predecessor rules and laws of the State of Tennessee regarding the procurement of such contracts.

Friday Examination—

Principles and Practice of Land Surveying (PLS).....	\$150.00
Tennessee Land Surveying (TLS).....	\$150.00

Saturday Examination—Fundamentals of Land Surveying

(FLS).....	\$125.00
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Professional Land Surveyor in Training (PLSIT) Examination (Application

Fee).....	\$ 25.00
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Authority: T.C.A. §§62-18-105(d), 62-18-109, 62-18-113, 62-18-114, and 62-18-125. **Administrative History:** Original rule filed June 6, 1974; effective July 6, 1974. Repeal and new rule filed November 18, 1985; effective February 12, 1986. Amendment filed November 15, 1991; effective December 30, 1991. Amendment filed September 5, 2002; effective November 19, 2002

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
James Caughman	x				
Tim Lingerfelt	x				
Galyon Northcutt	x				
Betsy Sumerford	x				

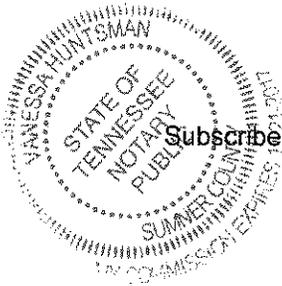
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the board on 01/26/2017, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 07/05/17

Signature: Laura E. Martin

Name of Officer: Laura E. Martin

Title of Officer: Assistant General Counsel



Subscribed and sworn to before me on: 7/5/17

Notary Public Signature: Vanessa Huntsman

My commission expires on: 11/21/17

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slattery III
Herbert H. Slattery III
Attorney General and Reporter

7/20/2017
Date

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Filed with the Department of State on: 7/27/17

Effective on: 10/25/17

Tre Hargett
Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Comptroller of the Treasury

DIVISION: Administration

SUBJECT: Access to Public Records Maintained by the Office of the Comptroller of the Treasury

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 10-7-503(g)

EFFECTIVE DATES: October 19, 2017 through June 30, 2018

FISCAL IMPACT: None.

STAFF RULE ABSTRACT: These rules are being repealed in accordance with Tenn. Code Ann. § 10-7-503(g), which requires each agency to adopt a public records *policy*. The Comptroller of the Treasury intends to adopt the public records policy designed by the Office of Open Records Counsel, in large part. <http://www.comptroller.tn.gov/openrecords/>

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

(Insert statement here)

This rule repeal will not have any impact on small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

(Insert statement here)

This rule repeal will not have any impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

These rules are being repealed in accordance with Tenn. Code. Ann. § 10-7-503(g), which requires each agency to adopt a public records *policy*. The Comptroller of the Treasury intends to adopt the public records policy designed by the Office of Open Records Counsel, in large part.
<http://www.comptroller.tn.gov/openrecords/>

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Tenn. Code Ann. § 10-7-503(g)

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Citizens of Tennessee are afforded access to the public records of state government pursuant to the Public Records Act. Tenn. Code Ann. § 10-7-503(g) requires that each agency adopt a policy with regard to access for public records, and the Comptroller's Office of Open Records Counsel has prepared a model policy for adoption. This repeal will allow the Comptroller of the Treasury to ensure that its public records rules are in line with the model policy adopted (and perhaps, amended from time to time) by the Comptroller's office. This should provide consistency for Tennessee citizens. We are unaware of any opposition to repealing these rules.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

None.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

None.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Stephanie Maxwell
General Counsel
Comptroller of the Treasury
505 Deaderick Street, Suite 1700
Nashville, TN 37243
(615) 401-7964
stephanie.maxwell@cot.tn.gov

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Stephanie Maxwell
General Counsel
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505 Deaderick Street, Suite 1700

Nashville, TN 37243
(615) 401-7964
stephanie.maxwell@cot.tn.gov

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Stephanie Maxwell
General Counsel
Comptroller of the Treasury
505 Deaderick Street, Suite 1700
Nashville, TN 37243
(615) 401-7964
stephanie.maxwell@cot.tn.gov

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

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Sequence Number: 07-31-17
Rule ID(s): 6576
File Date: 7/21/17
Effective Date: 10/19/17

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Comptroller of the Treasury
Division:	Administration
Contact Person:	Stephanie Maxwell, General Counsel
Address:	505 Deaderick Street, Suite 1700, Nashville, TN
Zip:	37243
Phone:	615-401-7964
Email:	Stephanie.maxwell@cot.tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0380-05-10	Access to Public Records Maintained by the Office of the Comptroller of the Treasury
Rule Number	Rule Title
0380-05-10-01	Purpose and Scope
0380-05-10-02	Definitions
0380-05-10-03	Request for Access to Records
0380-05-10-04	Requests for Reproduction of Records
0380-05-10-05	Fees and Costs for Reproduction of Public Records
0380-05-10-06	Payment for Reproduction of Public Records
0380-05-10-07	Waiver of Fees

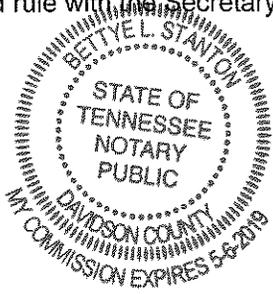
NOTE:

A redlined copy of the rules that are to be repealed by this proposed rule was not included with the agency filing, and is therefore not included in this rule review packet.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (board/commission/other authority) on 06/19/2017 (date as mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.



Date: 6/19/17

Signature: [Handwritten Signature]

Name of Officer: Justin P. Wilson

Title of Officer: Comptroller of the Treasury

Subscribed and sworn to before me on: JUNE 19, 2017

Notary Public Signature: Bettye L. Stanton

My commission expires on: MAY 6, 2019

Agency/Board/Commission: _____

Rule Chapter Number(s): _____

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

[Handwritten Signature]
Herbert H. Slatery III
Attorney General and Reporter

6/30/2017 Date

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Filed with the Department of State on: 7/21/17

Effective on: 10/19/17

[Handwritten Signature]
Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Military

DIVISION: Office of General Counsel

SUBJECT: Rules for Implementation of the "Tennessee Support, Training, and Renewing Opportunity for National Guardsmen (STRONG) Act of 2017"

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 49-4-1004(d), and Chapter 229 of the Public Acts of 2017

EFFECTIVE DATES: October 11, 2017 through June 30, 2018

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: The rule effectuates the purposes of the STRONG Act tuition reimbursement program. The rule standardizes the management of the program so that it is administered in a uniform way, making all Tennessee National Guard service members who are pursuing their first 120 hours towards earning their first undergraduate degree from an educational institution with its primary campus located in the State of Tennessee eligible to apply for STRONG Act tuition reimbursement. Prior to the STRONG Act, tuition assistance made available to members of the Tennessee National Guard was administered differently. In previous regulations effectuated by such rule, fewer members were eligible and the funding was dispersed differently.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

Not applicable.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This proposed rule is not projected to have an impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. §4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The rule effectuates the purposes of the STRONG Act tuition reimbursement program. The rule standardizes the management of the program so that it is administered in a uniform way, making all Tennessee National Guard service members who are pursuing their first 120 hours towards earning their first undergraduate degree from an educational institution with its primary campus located in the State of Tennessee eligible to apply for STRONG Act tuition reimbursement. Prior to the STRONG Act, tuition assistance made available to members of the Tennessee National Guard was administered differently. In previous regulations effectuated by such rule, fewer members were eligible and the funding was dispersed differently.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Public Acts of 2017; Chapter 0229 amends T.C.A. §49-4-1001 et seq. that had previously provided for tuition assistance for Tennessee National guard members and creates the STRONG Act program, which affords the Tennessee National Guard greater incentives in recruitment and retention of service members by offering tuition reimbursement opportunities to a larger population of eligible Tennessee National Guard service members. T.C.A. §49-4-1004(d) authorizes the Adjutant General to promulgate rules to effectuate the purposes of the program.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The Tennessee STRONG Act provides additional educational opportunities for currently active members of the Tennessee National Guard who are in good standing. This tuition assistance program is in keeping with and in support of Governor Haslam's "Drive to 55" initiative, which was launched in 2013 with the mission of equipping 55 percent of Tennesseans with a degree or certificate by the year 2025. Members of the Tennessee National Guard and educational institutions in the state of Tennessee are most directly affected by and stand to benefit most from this rule. Service members and educational institutions are supportive of adopting these rules, so that they may start utilizing the tuition reimbursement opportunities afforded through the STRONG Act.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

N/A

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The cost associated with the rule is included in the Governor's budget for FY 17-FY 18 and accounted for in the appropriations bill as enacted by the general assembly. A total amount of 8.95 million dollars, non reoccurring, is budgeted for this 4 year pilot program, which will sunset if not extended.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Libby Donoho, Deputy General Counsel for the Department
Libby.Donoho@tn.gov

Fred Denson, General Counsel for the Department
Fred.Denson@tn.gov

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Libby Donoho, Deputy General Counsel for the Department
Libby.Donoho@tn.gov

Fred Denson, General Counsel for the Department
Fred.Denson@tn.gov

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

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(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

N/A

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Sequence Number: 07-16-17
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File Date: 7/13/17
Effective Date: 10/11/17

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Military Department of Tennessee
Division:	Office of General Counsel
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0930-02-01	Rules for Implementation of the "Tennessee Support, Training and Renewing Opportunity for National Guardsman (STRONG) Act of 2017"
Rule Number	Rule Title
0930-02-01-.01	Purpose and Scope
0930-02-01-.02	Definitions
0930-02-01-.03	STRONG Act Tuition Reimbursement is Subject to Funding Availability
0930-02-01-.04	Scope of STRONG Act Tuition Reimbursement
0930-02-01-.05	Program Administration
0930-02-01-.06	Eligibility
0930-02-01-.07	Application Process for STRONG Act Tuition Reimbursement
0930-02-01-.08	Cessation of Eligibility for STRONG Act Tuition Reimbursement
0930-02-01-.09	Oversight
0930-02-01-.10	Waiver of Rule

**RULES
OF
MILITARY DEPARTMENT OF TENNESSEE**

**CHAPTER 0930-2-1
RULES FOR NATIONAL GUARD TUITION ASSISTANCE**

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0930-2-1-.01	Purpose and Scope	0930-2-1-.07	Cessation of Benefits
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0930-2-1-.03	Subject to Funding Availability	0930-2-1-.09	Application Process
0930-2-1-.04	Program Administration	0930-2-1-.10	Priority of Funding
0930-2-1-.05	Scope of Tuition Assistance Scholarships	0930-2-1-.11	Oversight
0930-2-1-.06	Eligibility	0930-2-1-.12	Waiver of Rule

~~0930-2-1-.01 PURPOSE AND SCOPE.~~

- ~~(1) To establish the policy, effective 1 July 2004, to be used for administering the Tennessee National Guard Tuition Assistance Scholarship Program [hereinafter called the "Program"]. The Program is managed under the guidance of the Adjutant General on a fair and equitable basis with limited funds appropriated annually by the state Legislature. The purpose of the program is to recruit and retain members of the Tennessee National Guard [hereinafter called the "TNG"].~~

~~*Authority:* Public Acts of 2004; Chapter 477. *Administrative History:* Original rule filed July 29, 2004; effective November 26, 2004.~~

~~0930-2-1-.02 DEFINITIONS.~~

- ~~(1) The following terms shall have the meanings set forth in the rule:~~
- ~~(a) Educational Institution. Any accredited state-supported university, community college, or vocational or technical school or any private college or any university located within the State of Tennessee.~~
 - ~~(b) Program. The Tennessee National Guard Tuition Assistance Scholarship Fund administered by the Adjutant General of Tennessee.~~
 - ~~(c) STAAB. State Tuition Assistance Advisory Board.~~
 - ~~(d) The office of the J1. The office of primary responsibility for the program, the Director of Human Resources.~~
 - ~~(e) Tuition. The cost of instruction delineated in a catalog of an educational institution for a semester, quarter, or classroom hour.~~
 - ~~(f) TNG. Tennessee National Guard.~~
 - ~~(g) Unsatisfactory Participant. A member of the TNG who has accumulated nine (9) or more unexcused absences from unit training assemblies within a twelve (12) month period, or who, without proper authority, failed to attend or complete the entire period of annual training, or is otherwise barred from favorable personnel actions.~~

~~*Authority:* Public Acts of 2004; Chapter 477. *Administrative History:* Original rule filed July 29, 2004; effective November 26, 2004.~~

0930-2-1-.03 SUBJECT TO FUNDING AVAILABILITY.

- (1) Meeting the eligibility criteria as outlined in Rule 0930-2-1-.06 does not obligate the TNG to award its scholarship. Tuition assistance scholarships can not be awarded if funds are depleted.

Authority: ~~Public Acts of 2004; Chapter 477. Administrative History: Original rule filed July 29, 2004; effective November 26, 2004.~~

0930-2-1-.04 PROGRAM ADMINISTRATION.

- (1) The Program will be administered by the Education Services Office [hereinafter called the "ESO" for Army] or Base Education and Training Manager [hereinafter called the "BETM" for Air].

Authority: ~~Public Acts of 2004; Chapter 477. Administrative History: Original rule filed July 29, 2004; effective November 26, 2004.~~

0930-2-1-.05 SCOPE OF TUITION ASSISTANCE SCHOLARSHIPS.

- (1) TNG members who meet the prerequisites in Rule 0930-2-1-.06 may receive a tuition assistance scholarship based upon available funds. Courses that are audited or are taken as "pass/fail" do not qualify and will not be approved for payment. Courses must be taken for academic credit or a certificate of completion. This program will provide funding for a course only once.
- (2) The Tuition Assistance Scholarship must be paid to an educational institution [not to the individual]. "Educational Institution" is defined as any accredited state-supported university, community college, or vocational or technical school or any private college or university located within the State of Tennessee.
- (3) Regardless of the state of residence, a member of the TNG who has met the eligibility requirements of these Rules and is attending a Tennessee educational institution, as defined above, qualifies for the same tuition assistance scholarship amount as an in-state resident. However, it will not be used for an increase in tuition due to out-of-state tuition costs.
- (4) In no case will the combination of this tuition assistance scholarship with any other tuition assistance program exceed 100% of the student's tuition cost, and shall not exceed the amount of in-state tuition assistance the member would receive if the member were enrolled at a state-supported institution.

Authority: ~~Public Acts of 2004; Chapter 477. Administrative History: Original rule filed July 29, 2004; effective November 26, 2004.~~

0930-2-1-.06 ELIGIBILITY. To qualify for a TNG tuition assistance scholarship pursuant to Rule 0930-2-1-.05, the TNG members must satisfy all the following conditions:

- (1) Be a member of the TNG on or before the first day of class for the semester, trimester, quarter, or term and have successfully completed basic military training or received a commission on or before the first day of class for the semester, trimester, quarter, or term.
- (2) Be a satisfactory participant in the TNG. An "unsatisfactory participant" is a member of the TNG who has accumulated nine (9) or more unexcused absences from unit training assemblies within a twelve (12) month period, or who, without proper authority, failed to attend or complete the entire period of annual training, or is otherwise barred from favorable personnel actions.
- (3) Must serve in the TNG beyond the end of the term for which the tuition assistance scholarship is granted.
- (4) The recipient must complete all courses in the semester for which benefits are received.

(Rule 0930-2-1-.06, continued)

~~*Authority:* Public Acts of 2004; Chapter 477. *Administrative History:* Original rule filed July 29, 2004; effective November 26, 2004.~~

~~**0930-2-1-.07 CESSATION OF BENEFITS.** The tuition assistance scholarship will permanently cease upon the member meeting any of the following conditions:~~

- ~~(1) Accumulation of 150 credit hours (semester), or the equivalent of the TNGs tuition assistance scholarship funding.~~
- ~~(2) Unsatisfactory participation by the TNG member as defined in Rule 0930-2-1-.06.~~

~~*Authority:* Public Acts of 2004; Chapter 477. *Administrative History:* Original rule filed July 29, 2004; effective November 26, 2004.~~

~~**0930-2-1-.08 RESTITUTION.**~~

- ~~(1) A TNG member shall repay the State of Tennessee the full tuition assistance scholarship amount received for each course during the preceding semester, trimester, quarter or term that:
 - ~~(a) The member failed to complete with a passing grade the course or courses for which he/she received the scholarship within 60 days of the originally scheduled course end date.~~
 - ~~(b) The member fails to produce grade report to the ESO/BETM within 60 days of the originally scheduled course end date.~~
 - ~~(c) The member becomes an unsatisfactory participant with the TNG, as described in Rule 0930-2-1-.06.~~~~
- ~~(2) The TNG member may retake the course at their own expense. A passing grade at that time will preclude the member from making restitution for the expense of the original course.~~
- ~~(3) If the member does not fulfill the member's contractual obligation to the TNG as defined in Rule 0930-2-1-.06, the Adjutant General [or designee] shall notify the member in writing that the member is liable for restitution, and the member shall repay the State of Tennessee the full amount of the tuition assistance scholarship received during the last school year.~~
- ~~(4) The member may appeal the requirement to make restitution pursuant to this paragraph if the member files a written notice of intent to appeal with the Adjutant General within 30 days notice that the member is liable for restitution. During the appeal process the requirement of restitution is postponed. If the Adjutant General determines that the matter meets the requirements for restitution, the Adjutant General shall inform the member of this determination. The member shall then make restitution within 60 days to the State of Tennessee for those courses for which the Adjutant General determines the member is liable. The decision of the Adjutant General is final and may not be appealed.~~

~~*Authority:* Public Acts of 2004; Chapter 477. *Administrative History:* Original rule filed July 29, 2004; effective November 26, 2004.~~

~~**0930-2-1-.09 APPLICATION PROCESS.**~~

- ~~(1) Members of the TNG who meet the requirements of Rule 0930-2-1-.06 may apply using the "Tennessee National Guard Tuition Assistance Scholarship Application Form", in accordance with annual guidance from the Adjutant General. A member must apply for each semester, trimester, quarter, or term for which they intend to utilize the scholarship.~~

(Rule 0930-2-1-.09, continued)

- (2) ~~The member will forward the completed and signed application to their respective ESO/BETM. The ESO/BETM will review applications for eligibility, accuracy, completeness, and priority category before being forwarded to the State Tuition Assistance Advisory Board [hereinafter called the "STAAB"]. Incomplete or invalid forms will be returned without action.~~
- (3) ~~Applications must be submitted to the ESO/BETM no later than the 10th day of the month prior to the class start month.~~
- (4) ~~Approval authority may be granted by the Adjutant General to the J-1/STAAB President. After Board review, the form will be signed and forwarded to the state budget office for funds obligation and then returned to the ESO/BETM for distribution to the applicant. Applications declined will be returned to the ESO/BETM without action. All participants must file a degree plan with the ESO/BETM after accumulation of nine (9) semester hours at an institution. The degree plan will detail all required courses needed to fulfill degree requirements. If a student's degree goal has changed, a new degree plan must be filed. Courses that do not support the current degree plan will not be funded.~~

~~*Authority:* Public Acts of 2004; Chapter 477. *Administrative History:* Original rule filed July 29, 2004; effective November 26, 2004.~~

~~**0930 2 1 .10 PRIORITY OF FUNDING.** As with any program that has fiscal limitations, funding priorities should be clear and consistent with the intent of this program. The primary intent of this program is to recruit and retain members of the TNG. All reasonable efforts will be made to fulfill all eligible applications.~~

- (1) ~~Priority 1. Members pursuing an undergraduate degree.~~
- (2) ~~Priority 2. Members pursuing certification at a vocational/technical institution.~~
- (3) ~~Priority 3. Members without a graduate degree who are pursuing a degree or those members who are pursuing a professional certification, i.e. teacher or principal certification, CPA, etc.~~

~~*Authority:* Public Acts of 2004; Chapter 477. *Administrative History:* Original rule filed July 29, 2004; effective November 26, 2004.~~

~~**0930 2 1 .11 OVERSIGHT.**~~

- (1) ~~The office of primary responsibility is the office of the J-1.~~
- (2) ~~For the purpose of rendering recommendations and guidance for this program, the Adjutant General will appoint a State Tuition Assistance Advisory Board to consist of the following members, with additional members appointed as necessary:~~
 - (a) ~~J-1.~~
 - (b) ~~Education Services Officer [Army].~~
 - (c) ~~Military Personnel Management Officer [Air].~~
 - (d) ~~Recruiting and Retention Manager [Army].~~
 - (e) ~~Recruiting and Retention Superintendent [Air].~~
 - (f) ~~Senior NCO/Officer from a Field Unit [Army].~~
 - (g) ~~Senior NCO/Officer from a Field Unit [Air].~~

(Rule 0930-2-1-.11, continued)

- (3) — The STAAB will have voting privileges for the purpose of conducting Board business.
- (4) — The STAAB will meet as required or at the call of the Adjutant General.

Authority: Public Acts of 2004; Chapter 477. *Administrative History:* Original rule filed July 29, 2004; effective November 26, 2004.

0930-2-1-.12 WAIVER OF RULE.

- (1) — The Adjutant General can waive any rule contained in 0930-2-1 not required by statute when it is in the best interest of the State of Tennessee and the Tennessee National Guard.

Authority: Public Acts of 2004; Chapter 477. *Administrative History:* Original rule filed July 29, 2004; effective November 26, 2004.

Chapter 0930-02-01
 Rules for Military Department of Tennessee
Rules for Implementation of the "Tennessee Support, Training and Renewing Opportunity for National Guardsman (STRONG) Act of 2017"

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- 0930-02-01-.02 Definitions
- 0930-02-01-.03 STRONG Act Tuition Reimbursement is Subject to Funding Availability
- 0930-02-01-.04 Scope of STRONG Act Tuition Reimbursement
- 0930-02-01-.05 Program Administration
- 0930-02-01-.06 Eligibility
- 0930-02-01-.07 Application Process for STRONG Act Tuition Reimbursement
- 0930-02-01-.08 Cessation of Eligibility for STRONG Act Tuition Reimbursement
- 0930-02-01-.09 Oversight
- 0930-02-01-.10 Waiver of Rule

0930-02-01-.01 Purpose and Scope.

To establish the Rules to be used for administering the "Tennessee Support, Training and Renewing Opportunity for National Guardsman (STRONG) Act of 2017", hereinafter referred to as the "Program." The Program is administered and managed under the authority and guidance of the Adjutant General. The purpose of the Program is to aid in the recruitment and retention of service members of the Tennessee National Guard.

Authority: T.C.A. §§ 49-4-1001 et seq. and 58-1-101 et seq.; and Acts 2017, ch. 0229.

0930-02-01-.02 Definitions.

- (1) The terms that follow shall have the following meanings, as set forth in this Rule:
 - (a) Educational institution: Any public university, college, or community college, or private college or any university that is regionally accredited and has its primary campus located within the state of Tennessee.

- (b) Federal Tuition Assistance (FTA): The FTA is distinct from and should not be confused with other tuition assistance programs that are federally funded, such as Montgomery GI Bill benefits and Post-9/11 GI Bill benefits. The FTA is a military tuition assistance program for which all Army National Guard and only active duty Air National Guard are eligible.
- (c) Tennessee Support, Training and Renewing Opportunity for National Guardsman Advisory Board (TN STRONG AB): The Program Advisory Board, also referenced herein as the "Board," is an advisory board to which the Adjutant General appoints Board members, and to whom the Adjutant General delegates the authority to review, approve or decline applications for STRONG Act tuition reimbursement, as set forth in this Rule and in accordance with Departmental policy.
- (d) Joint Force Headquarters Army National Guard G-1 (JFHQ G-1)/Joint Force Headquarters Air National Guard A-1 (JFHQ A-1): The JFHQ G-1/JFHQ A-1, or such office as named by the Adjutant General, is the office the Adjutant General has authorized, under his or her guidance and direction, to have primary responsibility for day-to-day operations for the Program, for the Tennessee Army National Guard and the Tennessee Air National Guard service members, respectively.
- (e) Credit hour: For the purposes of this Program, a credit hour is defined as the credit a service member receives for completion of an academic credit hour for a class in which a service member is enrolled beyond the educational institution's add/drop date and for which the service member receives a grade or a pass/fail designation, or is otherwise credited by the educational institution as having completed the course. If the service member drops a course prior to the add/drop date, the hours for that course will not be counted toward a service member's one hundred and twenty (120) attempted credit hours. A credit hour may include any associate degree hour or life experience (or equivalent) hour that is in furtherance of a service member's first bachelor's degree.
- (f) Good standing:
1. A service member of the Tennessee National Guard is considered to be in good standing for the purposes of this Program :
 - (i) if he or she, at the time the JFHQ G-1/JFHQ A-1 time/date stamps the application for STRONG Act reimbursement as received:
 - (I) has not accumulated nine (9) or more unexcused absences from unit training assemblies, nor failed to attend a scheduled annual training, within a twelve (12) month period prior to the time/date stamped receipt of the service member's application, unless the service member produces documentation, showing that the service member had obtained proper permission from his or her unit commander excusing the absence; and
 - (II) has not missed a ship date to complete basic military training before the first day of class for the semester, trimester, quarter, or academic term for which the service member has submitted an application for STRONG Act tuition reimbursement, unless the service member produces documentation, showing that the

service member had obtained proper permission from his or her unit commander excusing the absence; and

2. Additionally, in order to be considered in good standing for that academic term a service member must:
 - (i) have filed a course/degree plan with the JFHQ G-1/JFHQ A-1 after the completion of nine (9) credit hours, which course/degree plan will detail all required courses needed to fulfill degree requirements; and
 - (ii) after earning twelve (12) credit hours, the service member must have declared a major. If the service member has completed twelve (12) credit hours at the time that the application for tuition reimbursement is time/date stamped as received, the service member must include his or her declared major in the service member's application for tuition reimbursement. If a service member's major has changed, the new major must be reflected on subsequent applications for tuition reimbursement and course/degree plans.
3. Finally, to be considered in good standing for the purposes of this Program, the Board must have deemed the service member to be in good standing, after having reviewed relevant information obtained through the application process, at the direction and under the authority and guidance of the Adjutant General.

- (g) Currently active: A service member of the Tennessee National Guard is considered to be currently active for the purposes of this Program if he or she is an active member in the Tennessee Army National Guard and/or the Tennessee Air National Guard at the time his or her application for STRONG tuition reimbursement is time/date stamped as received by the JFHQ G-1/JFHQ A-1.

Authority: T.C.A. §§ 49-4-1001 et seq. and 58-1-101 et seq.; and Acts 2017, ch. 0229.

0930-02-01-.03 STRONG Act Tuition Reimbursement is Subject to Funding Availability.

- (1) Meeting the eligibility criteria as outlined in Rule 0930-02-01-.06 does not obligate the Tennessee Military Department to award STRONG Act tuition reimbursement. The approval and award of STRONG Act tuition reimbursement is subject to funding availability.
- (2) If funding becomes limited, distribution of STRONG Act tuition reimbursement will be executed in accordance with Departmental policy.

Authority: T.C.A. §§ 49-4-1001 et seq. and 58-1-101 et seq.; and Acts 2017, ch. 0229.

0930-02-01-.04 Scope of STRONG Act Tuition Reimbursement.

- (1) Payments of STRONG Act tuition reimbursement must be paid directly to an educational institution and not to the Tennessee National Guard member.

- (2) When the Board approves an eligible service member's application for STRONG Act tuition reimbursement, and the service member is attending a public educational institution, the Department of Military shall pay the educational institution an amount equal to one hundred percent (100%) of the maximum resident undergraduate in-state tuition charged by the institution attended, less all other state or federal financial assistance as described in T.C.A. §49-4-1005. Such financial assistance must be credited first to the service member's tuition, subject to T.C.A. §49-4-1005.
- (3) Notwithstanding 0930-2-1-.04(2), for service members attending a private two-year college, the amount of STRONG Act tuition reimbursement paid is the average cost of tuition at the public two-year postsecondary institutions, as determined by the Tennessee Higher Education Commission and Tennessee Student Assistance Corporation, less all other financial assistance received by the service member. For service members attending a private four-year college or university the amount paid is the average cost of tuition at the public four-year universities, as determined by the Tennessee Higher Education Commission and Tennessee Student Assistance Corporation, less all other financial assistance received by the service member. Such financial assistance must be credited first to the amount of the average tuition, subject to T.C.A. §49-4-1005.
- (4) STRONG Act tuition reimbursement amounts which a service member may be eligible to receive under this part must be offset and reduced by the aggregate amount of state and federal education financial assistance received by the service member during the semester or educational term for which STRONG Act tuition reimbursement is sought, unless federal law or regulation requires otherwise, in which case federal priority controls. Examples of such federal and state tuition assistance include, but are not limited to, the Tennessee Promise scholarship, the Tennessee Reconnect grant, the Tennessee HOPE scholarship, and similar state assistance, as such assistance programs or grants may be amended, as well as Tennessee student assistance awards, the federal Pell grant, Montgomery GI Bill benefits, Post-9/11 GI Bill benefits, and federal tuition assistance program benefits.
- (5) Service members who are eligible for FTA as defined herein must apply for and use any tuition awarded through FTA.
- (6) The above provisions apply to any STRONG Act tuition reimbursement paid to both public and private educational institutions.

Authority: T.C.A. §§ 49-4-1001 et seq. and 58-1-101 et seq.; and Acts 2017, ch. 0229.

0930-02-01-.05 Program Administration.

The Program will be administered by the JFHQ G-1/JFHQ A-1 at the direction and under the authority of the Adjutant General.

Authority: T.C.A. §§ 49-4-1001 et seq. and 58-1-101 et seq.; and Acts 2017, ch. 0229.

0930-02-01-.06 Eligibility.

To qualify for STRONG Act tuition reimbursement pursuant to T.C.A. §49-04-1005, the Tennessee National Guard member must satisfy all of the following conditions:

- (1) The service member must be in good standing as defined in this Rule.
- (2) The service member must be currently active in the Tennessee National Guard as defined in this Rule.
- (3) The service member must have served in the Tennessee National Guard during the applicable academic term for which the application for STRONG Act tuition reimbursement is submitted.
- (4) The service member must have maintained satisfactory academic progress and received a minimum grade point average of 2.0 as determined by the educational institution attended for the academic term for which STRONG Act tuition reimbursement is sought.
- (5) The service member must be pursuing postsecondary credit hours toward a first bachelor's degree.
- (6) The service member's STRONG Act tuition reimbursement application must be time/date stamped as received by the JFHQ G-1/JFHQ A-1 within ninety (90) days of the last day of instruction for the academic term, as determined by the service member's educational institution.

Authority: T.C.A. §§ 49-4-1001 et seq. and 58-1-101 et seq.; and Acts 2017, ch. 0229.

0930-02-01-.07 Application Process for STRONG Act Tuition Reimbursement.

- (1) Members of the Tennessee National Guard who meet the requirements of Rule 0930-02-01-.06 may apply for STRONG Act tuition reimbursement using the application process as set forth by this Rule and Departmental policy, and in accordance with guidance from the Adjutant General.
- (2) Service members must apply for tuition reimbursement through this Program within ninety (90) days of the last day of instruction for the academic term, as determined by the service member's educational institution, for which the service member is seeking STRONG Act tuition reimbursement.
- (3) Service members shall be required to submit a release to their educational institution that explicitly allows their educational institutions to lawfully release student records or other information requested by the JFHQ G-1/JFHQ A-1 during the application process.
- (4) Service members must submit completed and signed STRONG Act tuition reimbursement applications to the JFHQ G-1/JFHQ A-1 in a timely manner. Upon receipt, the JFHQ G-1/JFHQ A-1 will time/date stamp the applications as received, conduct an initial review of the applications for eligibility, accuracy, completeness, and process the applications accordingly. Incomplete or invalid applications may be returned without action by the JFHQ G-1/JFHQ A-1 for necessary corrections that would render the application complete and valid.
- (5) The JFHQ G-1/JFHQ A-1 shall submit a form to the service member's unit commander, or his or her designee, which requires the commander, or his or her designee, to report any disciplinary action(s) pending against the service member and document whether he or she would recommend the service member as a candidate for approval of STRONG Act tuition reimbursement.

- (6) The Adjutant General has ultimate authority to approve or deny applications for STRONG Act tuition reimbursement through this Program. At his or her discretion, the Adjutant General may delegate this authority to the TN STRONG AB, under the Adjutant General's direction and guidance, in accordance with this Rule and with Departmental policy.
- (7) The JFHQ G-1/JFHQ A-1 must submit a complete application to the TN STRONG AB for review and approval, as appropriate, in accordance with this Rule and with Departmental policy. For the purposes of this Program, a complete application will include:
- (a) the Tennessee National Guard member's timely-submitted application for STRONG Act tuition reimbursement; and
 - (b) the form referenced in 0930-02-01-.07(5), completed by the service member's unit commander or designee, to include his or her formal recommendation as to whether or not to approve the service member's application for STRONG Act tuition reimbursement ; and
 - (c) the JFHQ G-1/JFHQ A-1's formal recommendation as to whether or not to approve the service member's application for STRONG Act tuition reimbursement.
- (8) The TN STRONG AB, acting under the authority and instruction of the Adjutant General, may consider the complete, timely application to make a determination as to whether the service member is in good standing and currently active in the Tennessee National Guard for the purposes of this Program. When a service member is deemed to be currently active and in good standing, the Board will consider the application for approval in accordance with these Rules and Departmental policy. The Board, in its discretion, may consider all information obtained during the application process, in accordance with these Rules and Departmental policy, when making a determination of whether or not to approve a service member's application for STRONG Act tuition reimbursement through this Program. However, neither the aforementioned recommendations nor any other factor(s) taken into consideration are inherently determinative with regard to the ultimate determination to approve or decline to approve a service member's application for STRONG Act tuition reimbursement through this Program.
- (9) Approved applications will be time/date stamped and returned to the JFHQ G-1/JFHQ A-1 for processing STRONG Act tuition reimbursement, in accordance with this Rule and with Departmental policy. Applications that are declined by the Board will be time/date stamped as declined and returned to the service member, who will have thirty (30) days from the date of the Board's determination to submit an appeal to the Adjutant General for his or her consideration of the Board's decision, in accordance with this Rule and Departmental policy.

Authority: T.C.A. §§ 49-4-1001 et seq. and 58-1-101 et seq.; and Acts 2017, ch. 0229.

0930-02-01-.08 Cessation of Eligibility for Strong Act Tuition Reimbursement.

- (1) Eligibility for STRONG Act tuition reimbursement will permanently cease upon the advent of any of the following conditions:
- (a) The service member has attempted one hundred twenty (120) credit hours, inclusive of any postsecondary credit hours earned prior to receipt of STRONG Act tuition reimbursement;
or

- (b) The service member has completed eight (8) full-time semesters, as defined in T.C.A. §49-4-1003(b), or the equivalent of a semester if the educational institution is on a system other than a semester system, as defined in T.C.A. §49-4-1003(c); or
 - (c) The service member has earned a first bachelor's degree.
- (2) Eligibility will cease when a service member is not in good standing as defined in this Rule.
 - (3) Eligibility will cease when a service member is not currently active as defined in this Rule.
 - (4) All service members applying for tuition reimbursement through this Program are subject to the statutory limitations and conditions as provided in T.C.A. §49-4-1005. Should a service member fail to maintain satisfactory academic progress and a minimum of a 2.0 grade point average, he or she will become ineligible for tuition reimbursement. However, the service member may regain eligibility for tuition reimbursement at the end of any subsequent semester in which satisfactory academic progress and the required grade point average are established and the service member is deemed to meet all other requirements for STRONG Act reimbursement as determined by the Board.

Authority: T.C.A. §§ 49-4-1001 et seq. and 58-1-101 et seq.; and Acts 2017, ch. 0229.

0930-02-01-.09 Oversight.

Pursuant to §49-4-1001, et seq., the Adjutant General is vested with the authority to implement rules to effectuate the purposes of this Program. The Adjutant General hereby provides the following oversight provisions, which may be changed at any time at the Adjutant General's discretion:

- (1) The Adjutant General delegates oversight of day-to-day operations of this Program, as directed by the Adjutant General, to the JFHQ G-1/ JFHQ A-1.
- (2) The Adjutant General may appoint Board members to the TN STRONG AB as necessary and vest them with the following authority:
 - (a) The Board members will have voting privileges for the purpose of conducting Board business, in accordance with this Rule and Departmental policy.
 - (b) The TN STRONG AB will meet as required by this Rule or Departmental policy; or at the request of the Adjutant General, operating upon the recommendation of JFHQ G-1/ JFHQ A-1; or when otherwise directed by the Adjutant General or his or her designee.
 - (c) The TN STRONG AB has the authority to review completed applications that are submitted by JFHQ G-1/ JFHQ A-1 and determine the outcome of the application process in accordance with this Rule and Departmental policy.
- (3) The Department of Military's Office of General Counsel may provide legal guidance to the JFHQ G-1/JFHQ A-1, the TN STRONG AB and to the Adjutant General as it relates to administration of the Program, as necessary.
- (4) The Adjutant General will have appellate authority and jurisdiction over the administration of this

Program. He or she may delegate the procedural, legal, and/or administrative functions of the appellate process to the Office of the General Counsel, in accordance with this Rule and Departmental policy.

- (5) Any service member denied STRONG Act tuition reimbursement by the STRONG AB may submit a request for appellate consideration to the Adjutant General, in accordance with Departmental policy and this Rule.

Authority: T.C.A. §§ 49-4-1001 et seq. and 58-1-101 et seq.; and Acts 2017, ch. 0229.

0930-02-01-.10 Waiver of Rule.

The Adjutant General may waive any Rule contained in 0930-02-01 not required by statute when it is in the best interest of the State of Tennessee and the Tennessee Military Department.

Authority: T.C.A. §§ 49-4-1001 et seq. and 58-1-101 et seq.; and Acts 2017, ch. 0229.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

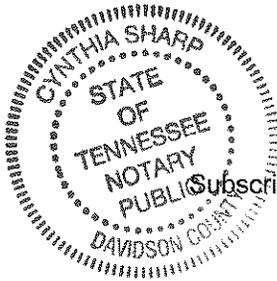
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (board/commission/other authority) on June 13, 2017 (date as mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 6/13/2017

Signature: _____

Name of Officer: Terry M. Haston, Major General

Title of Officer: The Adjutant General



Subscribed and sworn to before me on: June 13, 2017

Notary Public Signature: Cynthia Sharp

My commission expires on: July 2, 2018

Agency/Board/Commission: _____

Rule Chapter Number(s): _____

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter

6/27/2017
Date

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Filed with the Department of State on: 7/13/17

Effective on: 10/11/17

Tre Hargett
Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Transportation

DIVISION: Legal

SUBJECT: Inspection and Copying of Public Records

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 10-7-503(g)

EFFECTIVE DATES: October 15, 2017 through June 30, 2018

FISCAL IMPACT: None

STAFF RULE ABSTRACT: Chapter 1680-04-02 established rules governing the process for inspecting and obtaining copies of public records within the custody or control of the Tennessee Department of Transportation. Per T.C.A. § 10-7-503(g) [2016 Pub. Ch. 722, § 9], the Commissioner of the Tennessee Department of Transportation has duly adopted a written policy for this purpose, thereby rendering Chapter 1680-04-02 unnecessary.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

The repeal of Chapter 1680-04-02 and the replacement of these rules by TDOT Policy 101-06 applies to the citizens of Tennessee generally and has no specific effect on small business.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The repeal of Chapter 1680-04-02 and the replacement of these rules by TDOT Policy 101-06 applies to the citizens of Tennessee generally and has no specific effect on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Chapter 1680-04-02 established rules governing the process for inspecting and obtaining copies of public records within the custody or control of the Tennessee Department of Transportation. Per T.C.A. § 10-7-503(g) [2016 Pub. Ch. 722, § 9], the Commissioner of the Tennessee Department of Transportation has duly adopted a written policy for this purpose, thereby rendering Chapter 1680-04-02 unnecessary.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. § 10-7-503(g)

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The repeal of this Chapter, and its replacement by TDOT Policy 101-06, applies to all citizens of Tennessee generally.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

None

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

None

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

John H. Reinbold, General Counsel

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

John H. Reinbold, General Counsel

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Tennessee Department of Transportation, Suite 300, James K. Polk Building, 505 Deaderick Street, Nashville, TN 37243.

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None at this time.

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For Department of State Use Only

Sequence Number: 07-22-17
Rule ID(s): 6573
File Date: 7/17/17
Effective Date: 10/15/17

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Department of Transportation
Division:	Legal Division
Contact Person:	John H. Reinbold, General Counsel
Address:	505 Deaderick Street, Suite 300, Nashville, TN
Zip:	37243
Phone:	615-741-2941
Email:	John.Reinbold@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1680-04-02	Inspection and Copying of Public Records
Rule Number	Rule Title
1680-04-02-.01	Purpose
1680-04-02-.02	Definitions
1680-04-02-.03	General Information
1680-04-02-.04	Inspection of Public Records
1680-04-02-.05	Copying of Public Records
1680-04-02-.06	Payment of Costs for Reproducing Public Records
1680-04-02-.07	Appendices

NOTE:

A redlined copy of the rules that are to be repealed by this proposed rule was not included with the agency filing, and is therefore not included in this rule review packet.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

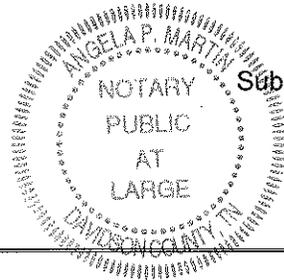
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (board/commission/other authority) on 06/20/2017 (date as mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: June 20, 2017

Signature: [Handwritten Signature]

Name of Officer: John C. Schroer

Title of Officer: Commissioner



Subscribed and sworn to before me on: 6-20-17

Notary Public Signature: Angela P. Martin

My commission expires on: 1-6-2020

Agency/Board/Commission: _____

Rule Chapter Number(s): _____

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
 Herbert H. Slatery III
 Attorney General and Reporter
6/30/2017
 Date

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Filed with the Department of State on: 7/17/17

Effective on: 10/15/17

[Handwritten Signature]
 Tre Hargett
 Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Tennessee Student Assistance Corporation

DIVISION: Higher Education

SUBJECT: Tennessee Promise Scholarship Program

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 49-4-708, 49-4-204, and 2015 Tenn. Pub. Acts Ch. 186

EFFECTIVE DATES: October 15, 2017 through June 30, 2018

FISCAL IMPACT: There shall be no increase or decrease in state and local government revenues and expenditures resulting from the promulgation of this rule. The Tennessee Promise Scholarship shall be funded with the Tennessee Promise Scholarship endowment funds.

STAFF RULE ABSTRACT: 2014 Tenn. Pub. Acts Ch. 900 implemented the Tennessee Promise Scholarship Act of 2014, providing an opportunity for all graduating high school seniors, regardless of socioeconomic status or academic performance, to obtain a certificate, diploma, or associate degree, free of tuition and fees. This last-dollar scholarship bridges the funding gap for a student after all other financial aid is applied; provides individual guidance to each participant through a statewide network of volunteer mentors; and engages the student by requiring the student to perform a minimum of eight hours of community service for each semester the scholarship is received.

Revisions to these rules will allow students who transfer to another postsecondary institution without sufficient time to complete their certificate or degree program to remain eligible for the Promise scholarship. After consulting with postsecondary financial aid offices across the state, the Tennessee Student Assistance Corporation (TSAC) has determined that this provision will greatly benefit students who might otherwise drop from enrollment, by allowing them to continue to receive the scholarship through the original terminating events. These rules also move the

summer community service deadline from May 1 to April 1, which will better align with the beginning of Tennessee Colleges of Applied Technology (TCATs) summer terms, provide additional time for institutions to notify students of ineligibility, and remove the mandatory requirement from the first student-partnering organization meeting.

Provisions which will not impact the current academic year include eliminating the August 1 verification deadline, clarifying that the fall community service deadline of July 1 applies to all students, adjusting the FAFSA due date to be determined by TSAC on an annual basis, and eliminating the renewal application.

Public Hearing Comments

These rule amendments were originally adopted by the Board of Directors of the Tennessee Student Assistance Corporation on September 26, 2016.

The Tennessee Student Assistance Corporation received no comments pursuant to the Rulemaking Hearing April 10, 2017.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses. The statute requires that as a part of its analysis, each agency shall prepare an economic impact statement as an addendum to each rule that is deemed to affect small businesses, which shall be published in the Tennessee Administrative Register, filed with the Secretary of State's Office, and made available to all interested parties, including the Secretary of State, Attorney General, and the House and Senate Government Operations Committees.

The agency shall consider without limitation, certain methods of reducing the impact of the proposed rule on small businesses while remaining consistent with health, safety and well-being and those methods are as follows: the extent to which the proposed rule or rules may overlap, duplicate, or conflict with other federal, state, and local governmental rules; clarity, conciseness, and lack of ambiguity in the proposed rule or rules; the establishment of flexible compliance and/or reporting requirements for small businesses; the establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses; the consolidation or simplification of compliance or reporting requirements for small businesses; the establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule; and the unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

Description of Proposed Rule

The proposed rules act to adopt changes to the Tennessee Promise Scholarship Program Chapter 1640-01-26 as proposed rules, to allow students who transfer to another postsecondary institution without sufficient time to complete their certificate or degree program to remain eligible for the Tennessee Promise scholarship. After consulting with postsecondary financial aid offices across the state, the Tennessee Student Assistance Corporation (TSAC) has determined that this provision will greatly benefit students who might otherwise drop from enrollment, by allowing them to continue to receive the scholarship through the original terminating events. These rules also move the summer community service deadline from May 1 to April 1, which will better align with the beginning of the Tennessee College of Applied Technology (TCATs) summer terms, and remove the mandatory requirement from the first student-partnering organization meeting. Provisions which will not impact the current academic year include eliminating the August 1 verification deadline, clarifying that the fall community service deadline of July 1 applies to all students, adjusting the FAFSA due date to be determined by TSAC on an annual basis, and eliminating the renewal application.

Regulatory Flexibility Analysis - Methods of Reducing the Impact of Rules on Small Businesses

1. Overlap, duplicate, or conflict with other federal, state, and local governmental rules:

The proposed rules will not overlap, duplicate, or conflict with other federal, state, and local governmental rules.

2. Clarity, conciseness, and lack of ambiguity in the rule or rules:

The proposed rules were patterned to ensure clarity and conciseness of the language of the rules and to eliminate possible ambiguity in the interpretation of the rules.

3. Flexible compliance and/or reporting requirements for small businesses:

The proposed rules were drafted to facilitate administration of the program for eligible postsecondary education institutions.

4. Friendly schedules or deadlines for compliance and/or reporting requirements:

TSAC worked diligently with the postsecondary financial aid community, the Tennessee Higher Education Commission, Tennessee Board of Regents, and Tennessee Colleges of Applied Technology, University of Tennessee System, and partnering organizations that are most directly affected by these proposed rules to ensure that proposed compliance and reporting requirements can be practically applied by eligible institutions administering the program.

5. Consolidation or simplification of compliance or reporting requirements:

The proposed rules were drafted to ensure solid, easily interpreted, compliance and reporting requirements.

6. Performance standards for small businesses:

TSAC expects the eligible institutions engaged in the administration of the Tennessee Promise Scholarship Program to comply with all applicable rules.

7. Barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs:

The proposed rules do not contain any foreseeable inhibitors to small business entrepreneurial activities.

Furthermore, the statute requires that the agency, as part of the rulemaking process for any proposed rule that may have an impact on small businesses, shall prepare an economic impact statement as an addendum for each rule. The statement shall include the following: the type or types of small businesses and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rules; the projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record; a statement of the probable effect on impacted small businesses and consumers; a description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small businesses; a comparison of the proposed rule with any federal or state counterparts; and analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

Economic Impact Statement

1. Types of small businesses directly affected:

Not applicable. The proposed rules were drafted to facilitate administration of the program for the eligible postsecondary institutions and should have no impact on small businesses.

2. Projected reporting, recordkeeping, and other administrative costs:

There are no significant changes in reporting, recordkeeping, or other administrative costs that will result from the promulgation of these proposed rules.

3. Probable effect on small businesses:

There will be no effect on small businesses.

4. Less burdensome, intrusive, or costly alternative methods:

As these proposed rules present no foreseeable cost to the eligible postsecondary institutions, there is no alternative method to propose.

5. Comparison with federal and state counterparts:

There are no federal or state counterparts to the issues addressed by these proposed rules.

6. Effect of possible exemption of small businesses:

There will be no exemptions created by these proposed rules.

Impact on Local Governments

The rules for the Tennessee Promise Scholarship Program Chapter 1640-01-26, as proposed, have no projected impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

2014 Tenn. Pub. Acts Ch. 900 implemented the Tennessee Promise Scholarship Act of 2014, providing an opportunity for all graduating high school seniors, regardless of socioeconomic status or academic performance, to obtain a certificate, diploma, or associate degree, free of tuition and fees. This last-dollar scholarship bridges the funding gap for a student after all other financial aid is applied; provides individual guidance to each participant through a statewide network of volunteer mentors; and engages the student by requiring the student to perform a minimum of eight hours of community service for each semester the scholarship is received.

Revisions to these rules will allow students who transfer to another postsecondary institution without sufficient time to complete their certificate or degree program to remain eligible for the Promise scholarship. After consulting with postsecondary financial aid offices across the state, the Tennessee Student Assistance Corporation (TSAC) has determined that this provision will greatly benefit students who might otherwise drop from enrollment, by allowing them to continue to receive the scholarship through the original terminating events. These rules also move the summer community service deadline from May 1 to April 1, which will better align with the beginning of Tennessee Colleges of Applied Technology (TCATs) summer terms, provide additional time for institutions to notify students of ineligibility, and remove the mandatory requirement from the first student-partnering organization meeting. Provisions which will not impact the current academic year include eliminating the August 1 verification deadline, clarifying that the fall community service deadline of July 1 applies to all students, adjusting the FAFSA due date to be determined by TSAC on an annual basis, and eliminating the renewal application.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Tenn. Code Ann. § 49-4-708 authorizes TSAC to administer the Tennessee Promise Scholarship Program, which provides last-dollar scholarship with individual mentoring opportunities for all graduating high school seniors to attend eligible postsecondary institutions, and Tenn. Code Ann. § 49-4-204 authorizes TSAC to promulgate rules and regulations relative to such program.

2015 Tenn. Pub. Acts Ch. 186 provides rulemaking authority for the revisions necessitated by the enactment of the legislation.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

TSAC, the Tennessee Higher Education Commission, Tennessee Board of Regents, TCATs, partnering organizations, volunteer mentors, and eligible high school and postsecondary students are most directly affected by these proposed rules.

These organizations and individuals urge adoption of these rules.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

There are no opinions of the attorney general and reporter or any judicial ruling that directly relates to these proposed rules.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

There shall be no increase or decrease in state and local government revenues and expenditures resulting from the promulgation of this rule. The Tennessee Promise Scholarship shall be funded with the Tennessee Promise Scholarship endowment funds.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Peter Abernathy, TSAC Senior Associate Executive Director and Staff Attorney, and Tim Phelps, TSAC Associate Executive Director for Grants and Scholarships.

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Peter Abernathy, TSAC Senior Associate Executive Director and Staff Attorney, and Tim Phelps, TSAC Associate Executive Director for Grants and Scholarships.

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

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- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

There have been no requests for additional information received to date.

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Sequence Number: 07-23-17
Rule ID(s): 6974
File Date: 7/17/17
Effective Date: 10/15/17

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Student Assistance Corporation
Division:	Higher Education
Contact Person:	Peter Abernathy
Address:	Suite 1510, Parkway Towers, 404 James Robertson Parkway, Nashville, TN
Zip:	37243
Phone:	615.532.6065
Email:	Peter.Abernathy@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1640-01-26	Tennessee Promise Scholarship Program
Rule Number	Rule Title
1640-01-26-.03	Application Process
1640-01-26-.04	Eligibility – Tennessee Promise Scholarship Program
1640-01-26-.07	Community Service Program Requirements
1640-01-26-.09	Partnering Organization Requirements
1640-01-26-.17	Transfer Students

**RULES
OF
TENNESSEE STUDENT ASSISTANCE CORPORATION**

**CHAPTER 1640-01-26
TENNESSEE PROMISE SCHOLARSHIP PROGRAM**

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1640-01-26-.01 DEFINITIONS.

- (1) Academic Requirement: A requirement of a specified grade point average or satisfactory academic progress that determines the continuing eligibility for postsecondary financial assistance from the Tennessee Promise Scholarship.
- (2) Academic Year: Three (3) consecutive semesters beginning with a fall semester and including the immediately following spring and summer semesters.
- (3) Board of Directors: The board of directors of the Tennessee Student Assistance Corporation.
- (4) Board of Regents: The board of regents of the state university and community college system of Tennessee.
- (5) Certificate or Diploma: A credential, other than a degree, the receipt of which indicates satisfactory completion of training in a program of study offered by an eligible postsecondary institution.
- (6) Continuous Enrollment: The term is defined in T.C.A. 49-4-708.
- (7) Cumulative Grade Point Average: The grade point average as calculated by the eligible postsecondary institution.
- (8) Degree: A two-year associate degree conferred on students by an eligible postsecondary institution.
- (9) Eligible High School: The term is defined in T.C.A. § 49-4-902.
- (10) Eligible Postsecondary Institution: The term is defined in T.C.A. § 49-4-708.
- (11) Eligible Postsecondary Program: The term is defined in T.C.A. § 49-4-708.
- (12) Entering Freshman: A student who enrolls in an eligible postsecondary institution as a participant in the Tennessee Promise Scholarship program in the fall term immediately following high school graduation, completion of a home school program, or attainment of a GED or HiSET diploma. Exceptions to this enrollment requirement may be made for students

(Rule 1640-01-26-.01, continued)

enrolled in a TCAT, for students enrolled in a four-year postsecondary institution but not immediately admitted into an eligible postsecondary program, or for personal or medical leaves of absence as outlined in these rules.

- (13) Expected Family Contribution (EFC): A measure of parental and/or student ability to contribute toward payment of educational expenses as determined by the FAFSA.
- (14) FAFSA: The term is defined in T.C.A. § 49-4-902.
- (15) FAFSA Verification: The process used by a postsecondary institution to verify the accuracy of information submitted on a student's FAFSA. For purposes of these rules, such process shall apply to verification documents required by the U.S. Department of Education regardless of how the student is selected.
- (16) Full-Time Student: The term is defined in T.C.A. § 49-4-708.
- (17) GED: The term is defined in T.C.A. § 49-4-902.
- (18) Gift Aid: The term is defined in T.C.A. § 49-4-708.
- (19) HiSET: The term is defined in T.C.A. § 49-4-902.
- (20) Home School Student: The term is defined in T.C.A. § 49-4-708.
- (21) Immediate Family Member: Spouse, parents, children, or siblings.
- (22) Mentor: An individual who is assigned by a Partnering Organization to assist Tennessee Promise Scholarship program participants in the college application and financial aid process. Mentors may serve in a volunteer or employed capacity at the discretion of the Partnering Organization. Volunteer mentors shall be at least twenty-one (21) years of age.
- (23) Parent: The parent or legal guardian of a student.
- (24) Partnering Organization: A not-for-profit organization selected by TSAC to administer the Tennessee Promise Scholarship program.
- (25) Resident: A resident of Tennessee as defined by regulations promulgated by the Tennessee Board of Regents.
- (26) Satisfactory Academic Progress: Progress in a course of study in accordance with the standards and practices used for Title IV programs by the TCAT at which the student is currently enrolled.
- (27) Semester: The term is defined in T.C.A. § 49-4-902.
- (28) Semester Hour: The credit hour used by a postsecondary institution, if the institution is on a semester system, or its equivalent, if the institution is on a system other than a semester system. "Semester hour" includes each semester hour attempted, whether remedial or for credit toward a degree, but shall not include any semester hour attempted before graduating from high school or earning a GED® or HiSET.
- (29) TCAT: Tennessee College of Applied Technology.

(Rule 1640-01-26-.01, continued)

- (30) Tennessee Promise Scholarship: A last-dollar scholarship to be applied to a participating student's tuition and mandatory fees after other gift aid for which a student is eligible is applied first to tuition and mandatory fees.
- (31) Tennessee Promise Scholarship Program: A scholarship program which provides last-dollar financial aid, mentoring, and community service opportunities for Tennessee students upon graduation from high school or home school, or attainment of a GED or HiSET.
- (32) Tennessee Promise Scholarship Student: The term is defined in T.C.A. § 49-4-708.
- (33) Terminating Event: The occurrence of an event described in T.C.A. § 49-4-708(c)(8).
- (34) Title IV: The term is defined in T.C.A. § 49-4-902.
- (35) TSAC: Tennessee Student Assistance Corporation.
- (36) Tuition and Mandatory Fees: Tuition and mandatory fees required for the enrollment or attendance of a student at an eligible postsecondary institution that are charged to all students, and shall not include fees charged for the Regents Online Degree Program, online courses, specific programs of study, books, or supplies even if such fees are considered necessary for enrollment.

Authority: T.C.A. §§ 49-4-201, 49-4-204, 49-4-708, and 49-4-902. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Amendments filed December 19, 2014; effective March 19, 2015. Emergency rule filed August 4, 2015; effective through January 31, 2016. Amendments filed February 9, 2016; effective May 9, 2016. Amendments filed February 22, 2016; effective May 22, 2016.

1640-01-26-.02 SCHOLARSHIP AWARD AMOUNTS AND CLASSIFICATIONS.

- (1) The Tennessee Promise Scholarship program is intended to provide financial assistance to offset tuition and mandatory fees associated with pursuing postsecondary education after other gift aid has been credited to tuition and mandatory fees.
- (2) Award amounts for the program shall be determined in accordance with T.C.A. § 49-4-708 and shall be set in the General Appropriations Act.
- (3) In the event that funds are insufficient to fully fund the Tennessee Promise Scholarship award program, TSAC may reduce the award amount in accordance with these rules.
- (4) Recipients of a Tennessee Promise Scholarship award as provided by these rules must be enrolled and attending fulltime in an eligible postsecondary institution. A student may enroll less than full time in the semester of graduation if full-time enrollment is not required to complete the program of study, and for semesters in which the student receives an approved leave of absence.
- (5) Except for approved medical or personal leaves of absence, award recipients must be continuously enrolled and maintain the required grade point average or satisfactory academic progress at an eligible postsecondary institution as provided in Tenn. Comp. R. & Regs. 1640-01-26-.04.
- (6) All tuition waivers and discounts for which a student or parent qualifies shall first be deducted from the student's tuition and mandatory fees before gift aid is credited.

(Rule 1640-01-26-.02, continued)

- (7) Gift aid from sources other than the Tennessee Promise Scholarship shall be credited first to tuition and mandatory fees to reduce the student's Tennessee Promise Scholarship award. If other gift aid exceeds tuition and mandatory fees then the student shall not be eligible for the Tennessee Promise Scholarship award, but shall remain eligible for all other services available through the Tennessee Promise Scholarship program, provided the student maintains all academic and non-academic requirements.
- (8) The receipt of a Tennessee Promise Scholarship is contingent upon admission to and enrollment in an eligible postsecondary institution. Qualifying for the Tennessee Promise Scholarship does not guarantee admission to an eligible postsecondary institution.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Amendment filed December 19, 2014; effective March 19, 2015. Emergency rule filed August 4, 2015; effective through January 31, 2016. Amendments filed February 9, 2016; effective May 9, 2016.

1640-01-26-.03 APPLICATION PROCESS.

- (1) Students participating in the Tennessee Promise Scholarship program shall file a FAFSA, or renewal FAFSA, in each year of program participation. The FAFSA must be submitted by mail or electronically as directed in the FAFSA instructions.
- (2) Students enrolled in a community college, public four-year postsecondary institution, or private institution shall file the FAFSA or renewal FAFSA according to the following deadlines: a date determined by TSAC for fall enrollment, or no later than November 1 for spring and summer enrollment.
 - ~~(a) — No later than February 15 for fall enrollment, or~~
 - ~~(b) — No later than November 1 for spring and summer enrollment.~~
- (3) Students enrolled in a TCAT shall file the FAFSA or renewal FAFSA according to the following deadlines: a date determined by TSAC for summer and fall enrollment, or no later than November 1 for spring enrollment.
 - ~~(a) — No later than February 15 for summer and fall enrollment, or~~
 - ~~(b) — No later than November 1 for spring enrollment.~~
- (4) Students are required to complete the Tennessee Promise Scholarship award application for the initial year of enrollment no later than November 1 of their senior year of high school. ~~For each successive year of participation students shall submit a renewal application no later than July 1 prior to the successive academic year giving notice to TSAC of their intent to participate in the Tennessee Promise Scholarship program. If either the deadline occurs on a weekend or state holiday, then the application deadline will be the next business day.~~

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Emergency rule filed August 4, 2015; effective through January 31, 2016. Amendments filed February 9, 2016; effective May 9, 2016.

1640-01-26-.04 ELIGIBILITY – TENNESSEE PROMISE SCHOLARSHIP PROGRAM.

- (1) To be eligible to receive a Tennessee Promise Scholarship a student shall:

(Rule 1640-01-26-.04, continued)

- (a) Be a Tennessee resident;
- (b) Graduate from an eligible high school, graduate high school as a dependent child of a military parent as outlined in T.C.A. § 49-4-926, complete high school as a home school student, or obtain a GED or HiSET diploma, provided that the student obtains a GED or HiSET diploma prior to the student reaching nineteen (19) years of age;
- (c) Attend full time in an eligible postsecondary institution in the fall term immediately following graduation from an eligible high school or home school, or attainment of the GED or HiSET diploma; except that a student enrolling in a certificate or diploma program at a TCAT may enroll in the summer prior to the fall term;
- (d) Maintain continuous enrollment as a full-time student at an eligible postsecondary institution unless granted a medical or personal leave of absence;
- (e) Maintain a minimum cumulative grade point average of 2.0, as determined by the eligible postsecondary institution, at the end of each academic year if enrolled in an associate degree program, or maintain satisfactory academic progress as determined by the TCAT;
- (f) Comply with United States Selective Service System requirements for registration, if such requirements are applicable to the student;
- (g) Be in compliance with federal drug-free rules and laws for receiving financial assistance;
- (h) Not be in default on a federal Title IV educational loan or Tennessee educational loan;
- (i) Not owe a refund on a federal Title IV student financial aid program or a Tennessee student financial aid program;
- (j) Not be incarcerated;
- (k) Not have earned an associate degree prior to enrolling in the initial academic term following graduation from a high school or home school program;
- (l) Prior to initial fall enrollment in a postsecondary institution, attend one mandatory meeting related to financial aid and FAFSA completion, and the college application process; and a second mandatory meeting related to college orientation. Participants may, but are not required to, attend additional meetings as offered by a Partnering Organization;
- (m) Complete eight (8) hours of community service for each semester while participating in the Tennessee Promise Scholarship program;
- (n) Submit all necessary documentation by August 1 to allow the postsecondary institution to complete FAFSA verification if enrolled at a two-year or four-year eligible institution or by October 1 if enrolled at a TCAT; FAFSA verification shall be completed regardless of eligibility for federal or state grants; After performing an initial review of the verification materials submitted by August 1, additional documentation may be requested by the postsecondary institution to complete initial FAFSA verification. This shall not render the student ineligible for Tennessee Promise if the additional necessary documents are provided by December 1. If either deadline occurs on a weekend or state holiday, then the application deadline will be the next business day; and

(Rule 1640-01-26-.04, continued)

- (o) Complete the FAFSA and have been assigned an EFC by the U.S. Department of Education.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Repeal and new rule filed December 19, 2014; effective March 19, 2015. Emergency rule filed August 4, 2015; effective through January 31, 2016. Amendments filed February 9, 2016; effective May 9, 2016. Amendments filed February 22, 2016; effective May 22, 2016.

1640-01-26-.05 ELIGIBILITY - EARLY HIGH SCHOOL GRADUATION.

- (1) A student who graduates early from an eligible high school, or completes an eligible home school program or obtains a GED or HiSET diploma prior to the spring semester preceding the initial fall enrollment may immediately enroll in an eligible postsecondary institution. Such student shall not be eligible for the Tennessee Promise Scholarship until the subsequent fall semester, but shall otherwise meet all initial eligibility requirements, and upon receipt of a Tennessee Promise Scholarship meet all continuing eligibility requirements as outlined in these rules.
- (2) Notwithstanding the provisions of this section, a student may be eligible for a Tennessee Promise Scholarship at a TCAT prior to the subsequent fall term if eligible for an exception as provided in these rules.
- (3) During all academic terms in which a student is enrolled in a postsecondary institution prior to the fall term following graduation from an eligible high school, the student shall:
 - (a) Enroll in an eligible postsecondary institution or a regionally accredited postsecondary institution located outside this state;
 - (b) Attend all mandatory meetings provided by the Partnering Organization;
 - (c) Not be required to participate in community service, except that the student must complete the amount of community service required by Tenn. Comp. R. & Regs. 1640-01-26-.07(1) before the subsequent fall semester; and
 - (d) Have no minimum requirement for credit hours or academic performance.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Emergency rule filed August 4, 2015; effective through January 31, 2016. Amendments filed February 9, 2016; effective May 9, 2016.

1640-01-26-.06 PERSONAL OR MEDICAL LEAVE OF ABSENCE.

- (1) A student may be granted a medical or personal leave of absence from timely enrollment in the initial semester, full-time attendance, or continuous enrollment at an eligible postsecondary institution as long as all other applicable eligibility criteria are met. Allowable medical or personal reasons may include illness of the student; illness or death of an immediate family member; extreme financial hardship of the student or student's immediate family; fulfillment of a religious commitment encouraged of members of that faith; fulfillment of required initial active duty for training as a National Guard or Reserve member or for National Guard or Reserve mobilization; attendance in a program of study at a TCAT which only begins in the spring or summer academic term or when openings are unavailable for the fall academic term; full-time attendance at an eligible four-year postsecondary institution while waiting for admission to an eligible postsecondary program; or other extraordinary

(Rule 1640-01-26-.06, continued)

circumstances beyond the student's control where attendance by the student creates a substantial hardship. In the event an institution denies a student's request for a medical or personal leave of absence, the student may appeal the decision in accordance with these rules.

- (2) A student granted a medical or personal leave of absence shall enroll full time in an eligible postsecondary institution in the first semester following the end of the leave of absence and shall retain the Tennessee Promise Scholarship until a terminating event occurs. A leave of absence of six (6) months or less shall not count against the five semester limit at an eligible postsecondary institution, and a leave of absence may extend beyond six (6) months for military, religious, or other extraordinary circumstances as described in this rule.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Emergency rule filed August 4, 2015; effective through January 31, 2016. Amendments filed February 9, 2016; effective May 9, 2016.

1640-01-26-.07 COMMUNITY SERVICE PROGRAM REQUIREMENTS.

- (1) A student participating in the Tennessee Promise Scholarship program shall perform and report eight (8) hours of community service for each semester the scholarship is received. Service shall be performed prior to the beginning of each academic semester, including the initial fall semester, in which the Promise Scholarship is received according to the following deadlines:
 - (a) August 1 for students attending the fall academic term; except that beginning in the 2017-18 academic year and thereafter, ~~entering freshmen~~ all students shall perform and report community service hours by July 1 for the fall academic term.
 - (b) December 1 for students attending the spring academic term.
 - (c) April 1 ~~May 1~~ for students attending the summer academic term.
- (2) A student who is granted a leave of absence may complete the community service during the leave of absence or in the first academic term following the period for which the leave of absence was granted. Community service performed in the first academic term following the leave of absence shall be in addition to any other community service required in the same academic term.
- (3) Upon completion of the community service, each student shall verify to the Partnering Organization a description of service performed, the date(s) the service was performed, the total hours of service provided, and the name and address of the organization for which the service was provided.
- (4) Community Service shall not include:
 - (a) Service performed prior to the Tennessee Promise Scholarship application deadline preceding the initial academic term;
 - (b) Service resulting in payment or remuneration of any kind; or
 - (c) Service that directly benefits family members.
- (5) Community service may be performed with or under the direction of a faith-based organization, but shall not include religious persuasion or proselytizing.

(Rule 1640-01-26-.07, continued)

- (6) Community service in excess of eight (8) hours performed in any semester shall not be carried over into subsequent semesters. Unless the student is on an approved leave of absence, failure to complete the eight (8) hours of community service prior to an academic semester will result in the immediate termination of eligibility for the Tennessee Promise Scholarship. Community service performed during an approved leave of absence shall count towards fulfillment of the community service requirement in the first semester following the leave of absence.
- (7) A student who knowingly provides false verification of community service shall be ineligible to receive additional benefits under the Tennessee Promise Scholarship program.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Repeal and new rule filed December 19, 2014; effective March 19, 2015. Emergency rule filed August 4, 2015; effective through January 31, 2016. Amendments filed February 9, 2016; effective May 9, 2016. Amendments filed February 22, 2016; effective May 22, 2016.

1640-01-26-.08 SELECTION OF PARTNERING ORGANIZATIONS.

- (1) To participate in the Tennessee Promise Scholarship program, a Partnering Organization shall be recommended by the mayor or executive of each county in which the Partnering Organization participates and approved by the Board of Directors.
- (2) An approved Partnering Organization may continue to serve in such capacity unless it is no longer recommended by a county mayor or executive or approved by the Board of Directors. Final approval to serve as a Partnering Organization shall be given at the discretion of the Board of Directors and based on the Partnering Organization's satisfactory performance and compliance with these rules.
- (3) A negative recommendation by one county mayor or executive shall not automatically disqualify the Partnering Organization from participating in other counties but will be considered in the Board of Directors' evaluation of the Partnering Organization's continued participation in the Program.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.

1640-01-26-.09 PARTNERING ORGANIZATION REQUIREMENTS.

- (1) Partnering Organizations that participate in the Tennessee Promise Scholarship program shall meet the following requirements:
 - (a) Be established as a not-for-profit organization, except that a postsecondary institution that receives funding under the Tennessee Promise Scholarship program shall not be permitted to participate as a partnering organization.
 - (b) Operate as a college access and success program serving Tennessee residents at an eligible postsecondary institution.
 - (c) Demonstrate annually to TSAC that funding exists within the Partnering Organization's budget to provide all services under the Tennessee Promise Scholarship program for a minimum of one (1) year. No funds under this program shall be provided for the direct or indirect benefit of a Partnering Organization.

(Rule 1640-01-26-.09, continued)

- (d) Adhere to rules promulgated by TSAC for the administration of this program.
- (e) Provide a mentoring program with a ratio of one (1) volunteer mentor to no more than ten (10) eligible student applications. This ratio shall apply to eligible student applications and may be reduced in proportion to the number of students who drop from participation in the program.

The minimum age and ratio requirements shall not apply to full- or part-time paid mentors or counselors that work directly with students.

- (f) Select volunteer mentors prior to December 1 for the following academic year and provide one (1) mandatory training meeting for all paid and volunteer mentors prior to January 31. This meeting may be offered on multiple dates prior to the January 31 deadline. This meeting shall cover at least the following topics:
 - 1. Program overview,
 - 2. Appropriate mentor-student relationships,
 - 3. Financial aid,
 - 4. FAFSA completion,
 - 5. College applications and admissions, and
 - 6. Community service requirements.
- (g) Provide one (1) ~~mandatory~~ meeting for all Tennessee Promise Scholarship program participants prior to March 1 preceding the initial enrollment in an eligible postsecondary institution. This meeting may be offered on multiple dates prior to the March 1 deadline, and shall provide training on the following topics:
 - 1. An overview of the Tennessee Promise Scholarship program,
 - 2. Appropriate relationships with mentors,
 - 3. Financial aid opportunities,
 - 4. FAFSA completion, and
 - 5. The college application process.
- (h) Provide one (1) mandatory meeting for all Tennessee Promise Scholarship program participants after March 1 and prior to May 31 preceding the initial enrollment in an eligible postsecondary institution. This meeting may be offered on multiple dates prior to the May 31 deadline and shall provide training on topics related to college orientation, making the transition from high school to college, and community service requirements.
- (i) Where a student cannot attend either mandatory meeting due to required attendance at a school-sponsored activity, required attendance at a religious-based activity, documented illness of the student, or other extenuating circumstances, the Partnering Organization shall provide opportunities for the student to receive the training prior to the March 1 or May 31 deadline, or as soon thereafter as practicable.

(Rule 1640-01-26-.09, continued)

- (j) Provide a minimum of one (1) mentor contact monthly with each assigned Tennessee Promise Scholarship program participant beginning February 1 of the senior year of high school. Contact shall be maintained throughout the student's participation in the Program.
- (k) Organize a local advisory council to serve as an advocate for the Program. The advisory council shall be comprised of a minimum of five (5) members, with at least one (1) member representative from each the local education agency, the county mayor's or executive's office, and a local postsecondary institution. Organizations that have been in existence for a minimum of three (3) years may use existing boards or boards of trustees as the local advisory council if the board or board of trustees is substantially similar to the requirements of this subsection.
- (l) Obtain a certified background check on all mentors prior to service as a mentor. A mentor shall not be eligible to participate in the Tennessee Promise Scholarship program if convicted of any felony or offense listed at T.C.A. §§ 39-13-527, 39-13-532, 39-17-417, and 40-35-501(i)(2). For purposes of this section, "conviction" includes entry of a plea of guilty or nolo contendere or entry of an order granting pre-trial or judicial diversion.
- (m) Submit to audits on a periodic basis as determined by TSAC.
- (n) Enter into a memorandum of understanding with TSAC regarding program requirements and Partnering Organization obligations and provide requested information to TSAC as required in the memorandum of understanding.
- (o) Provide electronic notification to TSAC when Tennessee Promise participants have completed their mandatory meetings and community service requirements. Reporting of community service performed in the previous academic term shall be provided to TSAC for each student no later than:
 - 1. August 15 for students attending the fall academic term.
 - 2. December 15 for students attending the spring academic term.
 - 3. May 15 for students attending the summer academic term.
- (p) Provide performance metrics as outlined in the memorandum of understanding entered into with TSAC.
- (q) Obtain an insurance policy that, at a minimum, limits liability of the Partnering Organization against physical and sexual abuse or misconduct directed toward participants of the Program by its officers, directors, employees, and volunteers.

Authority: T.C.A. §§ 39-13-527, 39-13-532, 39-17-417, 40-35-501, 49-4-201, 49-4-204, and 49-4-708.
Administrative History: Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Repeal and new rule filed December 19, 2014; effective March 19, 2015. Emergency rule filed August 4, 2015; effective through January 31, 2016. Amendments filed February 9, 2016; effective May 9, 2016.

1640-01-26-.10 PARTNERING ORGANIZATIONS – SERVICE IN COUNTIES.

- (1) A Partnering Organization that agrees to provide Tennessee Promise Scholarship program services in a county shall make the program available to all eligible high school, home school, and GED/HISET students in that county. The Partnering Organization shall continue

(Rule 1640-01-26-.10, continued)

to work with students from that county through a terminating event, regardless of which eligible postsecondary institution the student attends. Partnering Organizations may work with students from high schools or counties outside their assigned counties as agreed upon between the Partnering Organizations.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Emergency rule filed August 4, 2015; effective through January 31, 2016. Amendments filed February 9, 2016; effective May 9, 2016.

1640-01-26-.11 TERMINATING EVENTS

- (1) A student shall receive the Tennessee Promise Scholarship until reaching a terminating event as outlined in T.C.A. § 49-4-708.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Emergency rule filed August 4, 2015; effective through January 31, 2016. Amendments filed February 9, 2016; effective May 9, 2016.

1640-01-26-.12 TENNESSEE PROMISE SCHOLARSHIP REFORMS.

- (1) In the event funds are insufficient to fully fund the cost of Tennessee Promise scholarships, TSAC is authorized to take one or more of the following actions:
 - (a) Establish a maximum award amount,
 - (b) Establish additional eligibility criteria for new applicants entering the program,
 - (c) Administer the program on a first-come, first-served basis.
- (2) Any action taken by TSAC as described in subsection (1) shall require approval by TSAC's board of directors and notification shall be provided to the chairs of the Senate and House Education Committees of the Tennessee General Assembly.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.

1640-01-26-.13 CERTIFICATION OF ELIGIBILITY.

- (1) Each Partnering Organization shall determine student eligibility based on attendance at mandatory meetings and fulfillment of community service requirements as required in these rules, and shall certify such eligibility to TSAC.
- (2) TSAC will create a master certification roster of students for each institution. The master list will contain students who have met all requirements for the Tennessee Promise Scholarship.
- (3) The eligible postsecondary institution shall certify each student's eligibility for a financial award from the Tennessee Promise Scholarship based on continuing eligibility requirements established in these rules. The award amount reported to TSAC shall be the amount of tuition and mandatory fees remaining after other gift aid has first been applied to the student's tuition and mandatory fees. All tuition waivers and discounts for which a student or parent qualifies shall first be deducted from the student's tuition and mandatory fees before gift aid is credited.

(Rule 1640-01-26-.13, continued)

- (4) Once the eligible postsecondary institution has certified the student's eligibility for a financial award, the certification information shall be electronically transmitted to TSAC.
- (5) TSAC shall process a payment request directly to the eligible postsecondary institution on behalf of all Tennessee Promise Scholarship recipients who are eligible for a financial award. No funds shall be disbursed directly to the Partnering Organizations or to the students.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Emergency rule filed August 4, 2015; effective through January 31, 2016. Amendments filed February 9, 2016; effective May 9, 2016.

1640-01-26-.14 EVALUATION OF THE TENNESSEE PROMISE SCHOLARSHIP.

- (1) TSAC, along with the Tennessee Higher Education Commission, shall review the Tennessee Promise Scholarship program annually. The review shall include, at a minimum, the number of recipients, total cost of the program, student persistence, hours of community service completed, and scholarship retention. These findings shall be reported to the education committee members of the Senate and House of Representatives of the Tennessee General Assembly.
- (2) TSAC shall convene a meeting of its Special Advisory Committee at least annually to review the effectiveness and best practices of the Tennessee Promise Scholarship program.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.

1640-01-26-.15 AWARD MADE IN ERROR.

- (1) Repayment from the student shall not be required if TSAC determines that the error was through no fault of the student.
- (2) Repayment from the student shall be required if TSAC determines that fraud was committed or the error was due to the fault of the student. When repayment is required, the student may not receive additional student aid from TSAC until repayment is made.
- (3) Repayment from the postsecondary institution will be required if TSAC determines that the error was due to the fault of the postsecondary institution.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.

1640-01-26-.16 REFUND POLICY.

- (1) If a recipient of a Tennessee Promise Scholarship award fails to complete a semester for any reason, the eligible postsecondary institution shall apply its refund policy to determine whether a refund may be required and funds returned to TSAC. The eligible postsecondary institution shall provide the student with a notice indicating the amount to be returned to the student or the amount to be refunded to TSAC. Additionally, the eligible postsecondary institution shall notify TSAC of the refund, which shall be noted on the student's record. The eligible postsecondary institution shall also be responsible for obtaining repayment from the student. The student shall be ineligible for student aid from TSAC until the refund is paid.

(Rule 1640-01-26-.16, continued)

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.

1640-01-26-.17 TRANSFER STUDENTS.

- (1) A student who meets all academic and non-academic requirements of the Tennessee Promise Scholarship may transfer from one eligible postsecondary institution to another eligible postsecondary institution and maintain the scholarship until reaching a terminating event as outlined in T.C.A. § 49-4-708, ~~provided the student is able to complete the diploma or associate degree in the amount of time remaining before reaching a terminating event as outlined in T.C.A. § 49-4-708.~~

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.

1640-01-26-.18 APPEAL AND EXCEPTION PROCESS.

- (1) Each eligible postsecondary institution shall use their existing Institutional Review Panel (IRP) for purposes of reviewing and rendering decisions regarding appeals for the Tennessee Promise Scholarship program. The IRP shall use the same procedures and timelines as those that currently exist for the review of Tennessee Education Lottery Scholarship (TELS) appeals as outlined in Tenn. Comp. R. & Reg. 1640-01-19.
- (2) TSAC shall use the existing TELS Appeals Panel to consider appeals and render decisions for those students who appeal a decision made by the IRP. The same guidelines shall exist for appeals of the Tennessee Promise Scholarship program as those that are currently in place for TELS as outlined in Tenn. Comp. R & Reg. 1640-01-19.

Authority: T.C.A. §§ 49-4-201, 49-4-204, 49-4-708, and 49-4-924. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.

The vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent
Governor Haslam, by Mr. Stephen Smith	X			
Mr. Mike Krause	X			
Dr. Claude Pressnell	X			
Mr. David H. Lillard, Jr., by Ms. Shiri Anderson	X			
Comptroller Justin P. Wilson				X
Commissioner Larry Martin, by Mr. Greg Turner	X			
Commissioner Candice McQueen, by Dr. Danielle Mazera	X			
Chancellor David Gregory, by Dr. Heidi Leming	X			
Dr. Joe Dipietro, by Dr. Katie High	X			
Dr. J. Gary Adcox	X			
Ms. Karen Hauser	X			
Ms. Keri McInnis	X			
Dr. LaSimba Gray, Jr.				X
Mr. Tom Hughes				X
Mr. Randy Lowry				X
Mr. Garrett Wilson	X			
Ms. Sharon Hayes	X			

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Board of Directors 09/27/2016, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 02/15/2017

Rulemaking Hearing(s) Conducted on: 04/10/2017

Date: April 18, 2017

Signature: *Mike Krause*

Name of Officer: Mike Krause

Title of Officer: Executive Director



Subscribed and sworn to before me on: 04-19-2017

Notary Public Signature: *Corrina Dickson-Wiley*

My commission expires on: 08-04-2020

Agency/Board/Commission: Tennessee Student Assistance Corporation

Rule Chapter Number(s): 1640-0126

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter

7/6/2017
Date

Department of State Use Only

Filed with the Department of State on: 7/17/17

Effective on: 10/15/17

Tre Hargett
Tre Hargett
Secretary of State

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PUBLICATIONS

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Health

DIVISION: Board of Medical Examiners Committee for Clinical Perfusionists

SUBJECT: Licensure Fees for Clinical Perfusionists

STATUTORY AUTHORITY: No federal or state law or regulation has mandated the promulgation of this rule.

EFFECTIVE DATES: October 1, 2017 through June 30, 2018

FISCAL IMPACT: None

STAFF RULE ABSTRACT: This proposed rule will reduce the initial licensure fee and the biennial licensure renewal fee from \$350.00 to \$250.00. This rule amendment was approved by the Committee in December 2014 for a rulemaking hearing. However, failure to achieve a quorum prevented the Committee from conducting a rulemaking hearing.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

- (1) **The extent to which the rule or rules may overlap, duplicate, or conflict with other federal, state, and local governmental rules.**

This rule amendment does not overlap, duplicate, or conflict with other federal, state, and local government rules.

- (2) **Clarity, conciseness, and lack of ambiguity in the rule or rules.**

This rule amendment is established with clarity, conciseness, and lack of ambiguity.

- (3) **The establishment of flexible compliance and/or reporting requirements for small businesses.**

This rule amendment does not establish flexible compliance and/or reporting requirements for small businesses.

- (4) **The establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses.**

This rule amendment does not establish friendly schedules or deadlines for compliance reporting requirements for small businesses.

- (5) **The consolidation or simplification of compliance or reporting requirements for small businesses.**

This rule amendment does not consolidate or simplify compliance or reporting requirements for small businesses.

- (6) **The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule.**

This rule amendment does not establish performance standards for small businesses as opposed to design or operational standards required for the proposed rule.

- (7) **The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.**

This rule amendment does not create unnecessary barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

Name of Board, Committee or Council: Board of Medical Examiners Committee of Clinical Perfusionists

Rulemaking hearing date: N/A

- 1. Type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:**

Clinical Perfusionists and those that employ them, such as hospitals, will be affected. These groups will benefit from the fee reductions. Currently, there are one hundred and thirty-two (132) licensees.

- 2. Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:**

This proposed rule amendment will not affect reporting or recordkeeping and does not involve administrative costs.

- 3. Statement of the probable effect on impacted small businesses and consumers:**

The Committee does not anticipate that there will be any adverse impacts to small businesses as small businesses could benefit from the fee reductions. The proposed rule amendment should not have any impact on consumers.

- 4. Description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business:**

There are no less burdensome, less intrusive or less costly methods of achieving the purpose and/or objectives of the proposed rule amendment. On the contrary, this rule amendment could have a positive impact on business.

- 5. Comparison of the proposed rule with any federal or state counterparts:**

Federal: None.

State: Many boards and committees, currently operating at a surplus, are reducing some licensure fees according to the formula provided by the budget office.

- 6. Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.**

This proposed rule amendment does not provide exemptions for small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The proposed rule amendment should not have a financial impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This rule amendment will reduce the initial licensure fee and the biennial licensure renewal fee from \$350.00 to \$250.00. This rule amendment was approved by the Committee in December 2014 for a rulemaking hearing. However, failure to achieve a quorum prevented the Committee from conducting a rulemaking hearing.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

None.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Clinical Perfusionists and those that employ them, such as hospitals, will be affected. Currently, there are one hundred and thirty-two (132) licensees.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

None.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

This rule amendment should not result in any increase or decrease in state or local government revenues or expenditures.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Nathaniel Flinchbaugh, Assistant General Counsel, Department of Health.

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Nathaniel Flinchbaugh, Assistant General Counsel, Department of Health.

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel, Department of Health, 665 Mainstream Drive, Nashville, Tennessee 37243, (615) 741-1611, Nathaniel.Flinchbaugh@tn.gov.

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

**Department of State
Division of Publications**

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For Department of State Use Only

Sequence Number: 07-07-17
Rule ID(s): 6560
File Date: 7/3/17
Effective Date: 10/1/17

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Board of Medical Examiners Committee for Clinical Perfusionists
Division:	
Contact Person:	Nathaniel Flinchbaugh, Assistant General Counsel
Address:	665 Mainstream Drive, Nashville, Tennessee
Zip:	37243
Phone:	(615) 741-1611
Email:	Nathaniel.Flinchbaugh@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0880-11	General Rules and Regulations Governing the Practice of Clinical Perfusionists
Rule Number	Rule Title
0880-11-.06	Fees

(Rule 0880-11-.05, continued)

- (a) Pursuant to licensure/certification in another state:
 - 1. Comply with all the requirements of paragraph (2) of this rule except subparagraphs (d) and (j); and
 - 2. Cause to be submitted the information necessary for the Committee to determine that the state of licensure/certification has licensure or certification requirements substantially equivalent to the requirements of the Tennessee "Clinical Perfusionist Licensure Act" (T.C.A. §§ 63-28-101, et seq.) and this chapter of rules; and
 - 3. Cause the certification issued pursuant to subparagraph (2) (h) to show that the licensure or certification in another state is current, active and is in good standing without any restriction or encumbrance.
- (b) Pursuant to ABCP certification:
 - 1. Comply with all requirements of paragraph (2) of this rule except subparagraphs (d) and (j); and
 - 2. Have the ABCP submit directly to the Committee's administrative office satisfactory evidence of current ABCP certification as a certified clinical perfusionist.

(4) Application review and licensure decisions shall be governed by Rule 0880-11-.07.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-101, 63-6-101, 63-28-103, 63-28-104, 63-28-105, 63-28-106, 63-28-109, 63-28-114, 63-28-117, 63-28-118, and 68-11-114. **Administrative History:** Original rule filed April 26, 2002; effective July 10, 2002. Amendment filed May 8, 2003; effective July 22, 2003. Amendment filed April 5, 2006; effective June 19, 2006.

0880-11-.06 FEES. All fees provided for in this rule are non-refundable.

(1) Initial licensure fee to be submitted at the time of application.....	\$350.00
(1) Initial licensure fee to be submitted at the time of application.....	\$250.00
(2) Biennial renewal fee to be submitted every two (2) years when licensure renewal is due.....	\$350.00
(2) Biennial renewal fee to be submitted every two (2) years when licensure renewal is due.....	\$250.00
(3) Late renewal fee	\$100.00
(4) Licensure reinstatement/restoration fee	\$ 50.00
(5) Duplication of license fee	\$ 25.00
(6) Biennial state regulatory fee to be submitted at the time of application	\$ 10.00
(7) Fees may be paid in the following manner:	

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(Rule 0880-11-.06, continued)

- (a) All fees paid by money order, certified, personal, or corporate check must be submitted to the Committee's Administrative Office and made payable to the Committee for Clinical Perfusionists.
- (b) Fees may be paid by Division-approved credit cards or other Division-approved electronic methods.

Authority: T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-1-107, 63-6-101, 63-28-107, 63-28-114, and 63-28-118. **Administrative History:** Original rule filed April 26, 2002; effective July 10, 2002. Amendment filed March 10, 2005; effective May 24, 2005.

0880-11-.07 APPLICATION REVIEW, APPROVAL, AND DENIAL.

- (1) Review of all applications to determine whether or not the application file is complete may be delegated to the Committee's administrator.
- (2) A temporary authorization to practice, as described in T.C.A. § 63-1-142 may be issued to an applicant pursuant to an initial determination made by a Committee and Board designee who have both reviewed the completed application and determined that the applicant has met all the requirements for licensure, renewal or reinstatement. The temporary authorization to practice is valid for a period of six (6) months from the date of issuance of the temporary authorization to practice and may not be extended or renewed. If the Committee or Board subsequently makes a good faith determination that the applicant has not met all the requirements for licensure, renewal or reinstatement and therefore denies, limits, conditions or restricts licensure, renewal or reinstatement, the applicant may not invoke the doctrine of estoppel in a legal action brought against the state based upon the issuance of the temporary authorization to practice and the subsequent denial, limitation, conditioning or restricting of licensure.
- (3) If an application is incomplete when received by the Administrative Office, or the reviewing Committee and/or Board member or the Committee's/Board's designee determine additional information is required from an applicant before an initial determination can be made, the Board administrator shall notify the applicant of the information required. The applicant shall cause the requested information to be received in the Administrative Office on or before the sixtieth (60th) day after receipt of the notification.
 - (a) Such notifications shall be sent certified mail, return receipt requested, from the Administrative Office.
 - (b) If requested information is not timely received, the application file may be considered abandoned and may be closed by the administrator. If that occurs, the applicant shall be notified that the Committee and Board will not consider issuance of a license until a new application is received pursuant to the rules governing that process, including another payment of all fees applicable to the applicant's circumstances and submission of such new supporting documents as is required by the Committee and Board.
- (4) If a reviewing Committee and/or Board member or Committee and/or Board designee initially determines that a completed application should be denied, limited, conditioned or restricted, a temporary authorization shall not be issued. The applicant shall be informed of the initial decision and that a final determination on the application will be made by the Committee and the Board at their next appropriate meeting. If the Committee and Board ratify the initial denial, limitation, condition or restriction, the action shall become final and the following shall occur:

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
N/A					

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Board of Medical Examiners Committee for Clinical Perfusionists (board/commission/other authority) on 12/16/2014 (date as mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: May 31, 2017

Signature: Nathaniel R. Flinchbaugh

Name of Officer: Nathaniel Flinchbaugh

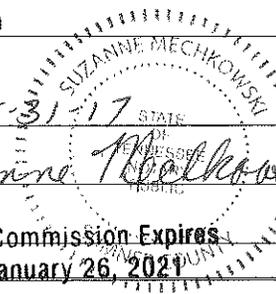
Assistant General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: 5-31-17

Notary Public Signature: Suzanne Mechkowski

My commission expires on: My Commission Expires January 26, 2021



All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Stately III

Herbert H. Stately III
Attorney General and Reporter

6/27/2017 Date

Department of State Use Only

Filed with the Department of State on: 7/3/17

Effective on: 10/1/17

Tre Hargett

Tre Hargett
Secretary of State

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PUBLICATIONS

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Health

DIVISION: Health Related Boards
Board of Examiners for Nursing Home Administrators

SUBJECT: General Rules Governing Nursing Home Administrators;
Fee Reduction

STATUTORY AUTHORITY: The promulgation of this rule amendment is not mandated
by any federal or state law or regulation.

EFFECTIVE DATES: October 23, 2017 through June 30, 2018

FISCAL IMPACT: This rule amendment should not result in any increase or
decrease in state or local government revenues or
expenditures.

STAFF RULE ABSTRACT: This rule amendment will reduce the biennial license
renewal fee from two hundred ten dollars (\$210.00) to one
hundred fifty dollars (\$150.00).

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

There were no public comments, either written or oral.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

- (1) **The extent to which the rule or rules may overlap, duplicate, or conflict with other federal, state, and local governmental rules.**

This rule amendment does not overlap, duplicate, or conflict with other federal, state, and local government rules.

- (2) **Clarity, conciseness, and lack of ambiguity in the rule or rules.**

This rule amendment is established with clarity, conciseness, and lack of ambiguity.

- (3) **The establishment of flexible compliance and/or reporting requirements for small businesses.**

This rule amendment does not contain compliance or reporting requirements for small businesses.

- (4) **The establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses.**

This rule amendment does not contain compliance or reporting requirements for small businesses.

- (5) **The consolidation or simplification of compliance or reporting requirements for small businesses.**

This rule amendment does not contain compliance or reporting requirements for small businesses.

- (6) **The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule.**

This rule amendment does not establish performance standards for small businesses as opposed to design or operational standards required for the proposed rule.

- (7) **The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.**

This rule amendment does not create unnecessary barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

Name of Board, Committee or Council: Board of Examiners for Nursing Home Administrators

Rulemaking hearing date: June 5, 2017

- 1. Type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:**

This proposed rule amendment will affect all applicants for licensure and current licensees. Applicants and current licensees will benefit from the reduction in the biennial renewal fee.

- 2. Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:**

This proposed rule amendment will not affect reporting or recordkeeping and does not involve administrative costs.

- 3. Statement of the probable effect on impacted small businesses and consumers:**

The Board does not anticipate that there will be any adverse impacts to small businesses as small businesses could benefit from the fee reductions. These proposed rule amendments should not have any impact on consumers.

- 4. Description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business:**

There are no less burdensome, less intrusive, or less costly methods of achieving the purpose and/or objectives of the proposed rule amendment.

- 5. Comparison of the proposed rule with any federal or state counterparts:**

Federal: None.

State: Many Health Related Boards in Tennessee currently operating at a surplus are reducing some licensure fees, including the Board of Respiratory Care, the Board of Medical Examiners Committee on Physician Assistants, and the Board of Examiners in Psychology.

- 6. Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.**

This proposed rule amendment does not provide exemptions for small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The proposed rule amendments should not have a financial impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This rule amendment will reduce the biennial license renewal fee from two hundred ten dollars (\$210.00) to one hundred fifty dollars (\$150.00).

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

None.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

This rule amendment will affect all current licensees.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

None.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

This rule amendment should not result in any increase or decrease in state or local government revenues or expenditures.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Caroline Tippens, Assistant General Counsel, Department of Health.

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Caroline Tippens, Assistant General Counsel, Department of Health.

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Tennessee Department of Health, Office of General Counsel, 665 Mainstream Drive, Nashville, Tennessee 37243, (615) 741-1611, Caroline.Tippens@tn.gov.

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

Department of State
Division of Publications
 312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
 Nashville, TN 37243
 Phone: 615-741-2650
 Email: publications.information@tn.gov

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Sequence Number: 07-35-17
 Rule ID(s): 6580
 File Date: 7/25/17
 Effective Date: 10/23/17

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Board of Examiners for Nursing Home Administrators
Division:	
Contact Person:	Caroline Tippens
Address:	665 Mainstream Drive, Nashville, Tennessee
Zip:	37243
Phone:	(615) 741-1611
Email:	Caroline.Tippens@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1020-01	General Rules Governing Nursing Home Administrators
Rule Number	Rule Title
1020-01-.02	Fees

(Rule 1020-01-.01, continued)

- (7) Board. The Tennessee Board of Examiners for Nursing Home Administrators.
- (8) Board Administrative Office. The office of the administrator assigned to the Tennessee Board of Examiners for Nursing Home Administrators located at 665 Mainstream Drive, Nashville, TN 37243.
- (9) Clock Hour. The measure of time for continuing education courses which equals sixty (60) minutes.
- (10) Division. The Division of Health Related Boards of the Department of Health, from which the Board receives administrative support.
- (11) Domains of Practice - Those areas of nursing home administration defined by the "Job Analysis Study" conducted by NAB.
- (12) Facility. A licensed nursing home facility.
- (13) Jurisprudence Examination. The examination on Tennessee statutes and rules for nursing homes in Tennessee.
- (14) Licensee. Any person who has been lawfully issued a license to practice nursing home administration in Tennessee.
- (15) NAB. The National Association of Boards of Examiners for Long Term Care Administrators.
- (16) NAB Examination. The nursing home administrators licensure examination developed by NAB.
- (17) Nursing Home. Any institution or facility defined as such pursuant to state law or the rules and regulations for nursing homes promulgated by the Board for Licensing Health Care Facilities. This term shall apply equally to Christian Science Santerias and services therein.
- (18) Practice of Nursing Home Administration. The planning, organizing, directing, or controlling of the operation of a nursing home.
- (19) Preceptor. A licensee in a teaching role who has the training, knowledge, professional activity, and a facility at which he or she trains prospective nursing home administrators. The preceptor will coordinate the program of development of an A.I.T.
- (20) Reciprocity Licensure. Licensure by endorsement from another state.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-16-101, 63-16-103, 63-16-105, 63-16-107, and 63-16-108.
Administrative History: Original rule certified June 7, 1974. Amendment filed November 12, 1982; effective December 13, 1982. Repealed by Public Chapter 969; effective July 1, 1984. New rule filed December 17, 1991; effective January 31, 1992. Amendment filed June 19, 1995; effective September 2, 1995. Repeal and new rule filed December 14, 1999; effective February 27, 2000. Amendment filed August 6, 2002; effective October 20, 2002. Amendment filed September 4, 2003; effective November 18, 2003. Amendment filed December 9, 2005; effective February 22, 2006.

1020-01-.02 FEES.

- (1) The fees authorized by the Practice Act (T.C.A. § 63-16-101, et seq.) and other applicable statutes, to be established by the Board are as follows:

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(Rule 1020-01-.02, continued)

- (a) Application Fee. A nonrefundable fee to be paid each time an application for licensure is filed. \$300.00
- (b) ~~License Renewal Fee. A biennial nonrefundable fee to be paid by all licensees.~~ \$210.00
- (b) License Renewal Fee. A biennial nonrefundable fee to be paid by all licensees. \$150.00
- (c) State Regulatory Fee. A non-refundable fee to be paid upon licensure and biennially for renewal of licensure. \$ 10.00
- (d) Late Renewal Fee. A non-refundable fee to be paid to reinstate an expired license. \$200.00
- (e) Duplicate License Fee. A nonrefundable fee to be paid to obtain a duplicate license. \$ 50.00
- (f) Certificate of Fitness Fee. A nonrefundable fee to be paid to obtain a certificate of fitness. \$ 50.00
- (g) Jurisprudence Examination Fee. A nonrefundable fee to be paid each time a person takes the Board's jurisprudence examination. \$150.00

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(2) Fees may be paid in the following manner:

- (a) All fees paid by money order, certified, personal, or corporate check must be submitted to the Board's Administrative Office and made payable to the Board of Examiners for Nursing Home Administrators.
- (b) Fees may be paid by Division-approved credit cards or other Division-approved electronic methods.

Authority: T.C.A. §§ 4-3-1011, 4-5-202, 4-5-203, 4-5-204, 63-1-106, 63-1-107, 63-1-118, 63-16-103 through 63-16-105, 63-16-106, 63-16-107, and 63-16-109. **Administrative History:** Original rule certified June 7, 1974. Repeal filed November 12, 1982; effective December 13, 1982. New rule filed December 17, 1991; effective January 31, 1992. Amendment filed June 19, 1995; effective September 2, 1995. Amendment filed September 25, 1995; effective December 9, 1995. Amendment filed June 13, 1996; effective August 24, 1996. Repeal and new rule filed December 14, 1999; effective February 27, 2000. Amendment filed July 31, 2000; effective October 14, 2000. Amendment filed August 6, 2002; effective October 20, 2002. Amendments filed September 14, 2010; effective December 13, 2010.

1020-01-.03 BOARD OFFICERS, RECORDS, MEETINGS, CONSULTANTS, CHANGE OF ADDRESS AND/OR NAME, AND DECLARATORY ORDERS AND SCREENING PANELS

(1) The Board shall annually elect from its members the following officers:

- (a) Chairman - who shall preside at all Board meetings.
- (b) Vice Chairman - who shall preside at Board meetings in the absence of the Chairman.
- (c) Secretary - who along with the Board Administrator shall be responsible for all administrative functions, records and correspondence of the Board.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Harold Walker				X	
Marilyn C. Key	X				
Lakecia Harper	X				
Jano Janoyan, DO				X	
Cynthia L. Wheeler	X				
Juanita Honeycutt	X				
Florence Weierbach, PhD, MPH, RN	X				
Barbara Brunette Trautman	X				
Vincent Davis	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Examiners for Nursing Home Administrators (board/commission/ other authority) on 06/05/2017 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 04/10/17 (mm/dd/yy)

Rulemaking Hearing(s) Conducted on: (add more dates). 06/05/17 (mm/dd/yy)

Date: June 9, 2017

Signature: Caroline B. Tippens

Name of Officer: Caroline Tippens
Assistant General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: 6-9-17

Notary Public Signature: Suzanne Mechkowski

My commission expires on: January 26, 2021



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All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatyer III
Herbert H. Slatyer III
Attorney General and Reporter

7/20/2017
Date

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Filed with the Department of State on: 7/25/17

Effective on: 10/23/17

Tre Hargett
Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Tennessee Wildlife Resources Agency

DIVISION: Fisheries

SUBJECT: Commercial Fishing and Wholesale Fish Dealers

STATUTORY AUTHORITY: No federal or state law or regulation has mandated the promulgation of this rule.

EFFECTIVE DATES: October 12, 2017 through June 30, 2018

FISCAL IMPACT: None

STAFF RULE ABSTRACT: This rulemaking hearing rule outlines the necessary licenses, supplemental permits, and reporting requirements that are required before any person, firm or corporation can engage in the business of a commercial fisher or wholesale dealer. The rule also outlines the process for the drawing of a roe fish permit when/if the current maximum number is not purchased by March 15 of each license year.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

PUBLIC COMMENTS AND RESPONSES

Comment: No written or verbal comments were received by the Commission.

Response: N/A

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

(1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule;

Response: The Commission anticipates no negative impact to the commercial fisherman or wholesale fish dealers. For FY 2016, there were 315 licensed commercial fishers and 24 licensed wholesale fish dealers that complied with Proclamation 16-41 (Statewide Proclamation on the Commercial Taking of Fish and Turtles) while conducting the business of commercial harvest, buying and/or selling of legal commercial species. With no changes to sections of proclamation that are being shifted to the new commercial fishing rule there would be no cost from the proposed rule.

Currently (FY 2017) there are 39 resident commercial roe fishermen with one outstanding roe fish permit/supplement. One commercial fisherman would benefit from the proposed rule that would allow he/she to sell to a wholesale fish dealer who would benefit from the proposed rule.

(2) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record;

Response: The Commission anticipates no change in reporting, recordkeeping, or other administrative costs to incorporate the proposed rule change into the existing the TWRA system.

(3) A statement of the probable effect on impacted small businesses and consumers;

Response: The Commission anticipates no negative impact to the commercial fisherman or wholesale fish dealers as the language regulating these businesses already exists under statute and proclamation and is not being amended. There would be a positive impact for one commercial fisherman and the business(s) that purchased harvested fish.

(4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business;

Response: The Commission is unaware of an alternative to the proposed rule and anticipates no negative impacts for commercial fisherman or wholesale fish dealers.

(5) A comparison of the proposed rule with any federal or state counterparts; and

Response: The Commission is not aware of any federal or state counterparts to this rule.

(6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

Response: The commercial fisherman and wholesale fish dealers would not realize any benefit or loss if exempted from this rule.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

Will passage of this rule have a projected financial impact on local governments?

Response: We do not anticipate any significant fiscal impact to local governments as a result of this rule.

Please describe the increase in expenditures or decrease in revenues:

Response: We do not anticipate any increase in expenditures but would have decreased revenues if licenses could not be sold.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The rule outlines the necessary licenses, supplemental permits, reporting requirements that are required before any person, firm or corporation can engage in the business of a commercial fisher or wholesale dealer. The rule also outlines the process for drawing of a roe fish permit when/if the current maximum number is not purchased by March 15 of each license year.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

We are not aware of any federal law or regulation or any state law or regulations that directly relate to this rule.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The Tennessee Wildlife Resources Agency and commercial fishers and wholesale fish dealers will be affected most directly by this rule. The Tennessee Wildlife Resources Agency is urging adoption of this rule.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

Tennessee Commercial Roe Fishermen's Association, Et Al. v. Tennessee Wildlife Resources Commission, Et Al; No. M2015-01944-COA-R3-CV – Filed August 30, 2016

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

We do not anticipate any significant fiscal impact to the Agency, local or state revenues as a result of this rule amendment.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Eric Ganus, Fisheries Biologist, possesses substantial knowledge and understanding of this rule.
(Eric.Ganus@tn.gov)

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Chris Richardson, TWRA Special Assistant to the Director/Policy and Legislation, will explain the rule at the scheduled meeting of the Government Operations Committee.

- (H)** Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Chris Richardson, Tennessee Wildlife Resources Agency, P.O. Box 40747, Nashville, TN 37204, (615) 837-6016, Chris.Richardson@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

There is no addition relevant information to the rule proposed.

**Department of State
Division of Publications**

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Sequence Number: 07-18-17
Rule ID(s): 10570
File Date: 7/14/17
Effective Date: 10/12/17

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Wildlife Resources Agency
Division:	Fisheries
Contact Person:	Lisa Crawford
Address:	P.O. Box 40747, Nashville, TN
Zip:	37204
Phone:	615-781-6606
Email:	Lisa.Crawford@tn.gov

Revision Type (check all that apply):

- Amendment
- New
- Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1660-01-30	Commercial Fishing and Wholesale Fish Dealers
Rule Number	Rule Title
1660-01-30-.01	Licenses and Permits
1660-01-30-.02	Report Requirements
1660-01-30-.03	Resident Roe Fish Permit/Supplement Application and Drawing

New Rules

1660-01-30 Rules and Regulations Governing Commercial Fishing and Wholesale Fish Dealers is added as a new chapter, with the following new rules.

1660-01-30-.01, Licenses and Permits, is added as a new rule to read as follows:

1660-01-30-.01 Licenses and Permits

- (1) A commercial fishing license is required by anyone engaging in commercial fishing. A commercial fisher with a valid Commercial Fishing License must be on board the vessel while commercial fishing for fish or turtles. Commercial fishers must have a valid commercial helpers permit for each person on board the vessel that is aiding or assisting in the act of commercial fishing.

New Rules

1660-01-30 Rules and Regulations Governing Commercial Fishing and Wholesale Fish Dealers is added as a new chapter, with the following new rules.

1660-01-30-.01, Licenses and Permits, is added as a new rule to read as follows:

1660-01-30-.01 Licenses and Permits

- (1) A commercial fishing license is required by anyone engaging in commercial fishing. A commercial fisher with a valid Commercial Fishing License must be on board the vessel while commercial fishing for fish or turtles. Commercial fishers must have a valid commercial helpers permit for each person on board the vessel that is aiding or assisting in the act of commercial fishing.
- (2) A commercial fisher with a valid Commercial Fishing License and a valid Commercial Roe Fish Permit, Supplemental must be on board the vessel while any part of a paddlefish or bowfin is harvested from the waters of the state. A maximum of sixty three (63) Resident Commercial Roe Fish Permits was established as those sold on or before November 1, 2014 during the 2014-2015 license year. The maximum number of Nonresident Commercial Roe Fish Permits sold shall be five (5). An individual who purchased a Resident Commercial Roe Fish Permit between March 1, 2006, and March 31, 2006, shall have priority to renew that permit by March 15 of each license year until he/she fails to renew such permit. An individual who purchased a Resident Commercial Roe Fish Permit between March 1, 2014 and November 1, 2014 shall have priority to renew that permit by March 15 of each license year until he/she fails to renew such permit. Priority status does not apply to nonresident permits. Beginning March 15, 2015, the number of Resident Commercial Roe Fish Permits will be reduced on a year by year basis to a maximum of forty (40) when/if the current maximum number is not purchased by March 15 of each license year. A wholesale fish dealer must have a valid Wholesale Fish Dealer's License and a valid Wholesale Roe Fish Permit, Supplemental to buy, hold, or sell any part of a paddlefish or bowfin.
- (3) A commercial fisher with a valid Commercial Fishing License and a Commercial Turtle Permit, Supplemental must be on board the vessel while any part of a turtle is harvested from the waters of the state. The maximum number of Resident Commercial Turtle Permits sold shall be thirty five (35) and the maximum number of Nonresident Commercial Turtle Permits sold shall be five (5). An individual who purchased a Commercial Turtle Permit between March 1, 2012, and October 15, 2012, shall have priority to renew that permit by March 15 of each year thereafter until he/she fails to renew such permit. Priority status does not apply to nonresident permits. A wholesale fish dealer must have a valid Wholesale Fish Dealer's License to buy, hold, or sell any part of a turtle.
- (4) Commercially harvested paddlefish or parts thereof taken from the waters of the state and sold in state must be marketed to a licensed wholesale fish dealer who has a valid Wholesale Roe Fish Permit, Supplemental.

Authority: TCA §§70-1-206 and 70-2-301. **Administrative History:** Original rule filed _____ ; effective _____.

1660-01-30-.02, Report Requirements, is added as a new rule to read as follows:

1660-01-30-.02 Report Requirements

- (1) Commercial fishers and wholesale fish dealers must have a valid phone number and street address on file with TWRA at all times. Commercial fishers and wholesale fish dealers are required to submit daily and/or monthly reports as requested to the TWRA, except for commercial fishers with a commercial bow license that are only required to submit an annual report as instructed.
- (2) Commercial fishers are required to provide TWRA with requested information and samples for all fish or turtles (or parts thereof) which they harvest from Tennessee waters or import into Tennessee.

- (3) Requested information shall be reported on report forms provided by TWRA. These forms must be completed within 24 hours of harvest or importation and/or a completed Daily Commercial Roe Fish Harvest Report must be submitted to the wholesale fish dealer at time of transaction.
- (4) Paddlefish and bowfin harvest are only documented on the Daily Commercial Roe Fish Harvest Report.
- (5) All other commercial fish harvested are only documented on the Monthly Commercial Fishing Report and turtles harvested are only documented on the Monthly Commercial Turtle Reports.
- (6) Commercial fishers must notify TWRA on the appropriate form if they did not harvest fish or turtles (or parts thereof) during a month.
- (7) Wholesale fish dealers are required to provide TWRA with requested information and samples for all fish or turtles (or parts thereof) which they receive from commercial fishers, wholesale fish dealers, or nonresident equivalents. Wholesale transactions are reported on the Monthly Wholesale Fish Dealer Report.
- (8) Wholesale fish dealers must indicate the quantity of fish or turtles (or parts thereof) that they receive from a commercial fisher on reports issued by the commercial fisher and/or reports issued by TWRA.
- (9) The wholesale fish dealer must record the raw drained egg weight (0.01 pounds) for each individual fish received with eggs indicated. The raw drained egg weight is the weight of the eggs after rinsing and draining that is used to calculate the percentage of salt added that would yield the salted processed weight.
- (10) Wholesale fish dealers must sign and date these reports within 24 hours of receiving the product.
- (11) Wholesale fish dealers must satisfy the commercial fishing reporting requirements as instructed by TWRA for nonresidents who supply them with fish or turtles (or parts thereof) harvested out-of-state.
- (12) Wholesale fish dealers must notify TWRA on the appropriate form if they did not receive fish or turtles (or parts thereof) during a month.
- (13) Commercial fishers and wholesale fish dealers must retain a copy of all reports and forms for a period of two years, and make them available for inspection by TWRA.
- (14) Commercial fishers and wholesale fish dealers must contact the Fisheries Division within 5 days upon purchasing a license and request the required forms.
- (15) Commercial fishers importing or exporting commercial fish or turtles (or parts thereof) into or out of Tennessee must have bills of lading denoting the quantity of product, name and address of supplier, name of water body from which product was harvested, and date of import/export.
- (16) A copy of the bill of lading must be in the possession of the person importing or exporting the product. Commercial fishers must retain a copy of each bill of lading for a period of two years, and make it available for inspection by TWRA.

Authority: TCA §§70-1-206 and 70-2-301. Administrative History: Original rule filed _____; effective _____.

1660-01-30-.03. Resident Roe Fish Permit/Supplement Application and Drawing, is added as a new rule to read as follows:

1660-01-30-.03 Resident Roe Fish Permit/Supplement Application and Drawing

- (1) Resident Roe Fish Permit/Supplement(s) (Type 108) will only be available if the number of permits sold by TWRA through March 15 of a given license year is less than forty (40). The

number of permits available in this drawing process will equal the difference between forty (40) and the number sold through March 15.

- (2) Applicants must be residents of the State of Tennessee, possess a valid commercial fishing license (Types 100 or 101) at the time of the drawing, and have had a valid commercial license (Type 100 or 101) for 6 months of the previous license year.
- (3) The Resident Roe Fish Permit/Supplement drawing will be announced by TWRA. On drawing day, participating applicants must appear in person at TWRA's Nashville office and complete an application supplied by TWRA between 9 a.m. and 11 a.m. (central time). One application is permitted per person. If more than one application is submitted by a person, then all applications from that individual will be excluded from the drawing.
- (4) Applicants who are randomly selected by TWRA must purchase the Resident Roe Fish Permit/Supplement (Type 108) within one hour. Selected applicants will be removed from the applicant pool for the duration of the drawing. Those failing to meet the purchasing requirements will forfeit the right to purchase the permit/supplement. A subsequent random drawing for the unpurchased roe fish permit/supplement will then occur from the remaining application pool.
- (5) Those individuals that possess a Resident Roe Fish Permit/Supplement (Type 108) shall have priority to renew that permit by March 15 of each license year until he/she fails to renew the permit.

Authority: TCA §§70-1-206 and 70-2-301. **Administrative History:** Original rule filed _____; effective _____.

- (4) Applicants who are randomly selected by TWRA must purchase the Resident Roe Fish Permit/Supplement (Type 108) within one hour. Selected applicants will be removed from the applicant pool for the duration of the drawing. Those failing to meet the purchasing requirements will forfeit the right to purchase the permit/supplement. A subsequent random drawing for the unpurchased roe fish permit/supplement will then occur from the remaining application pool.
- (5) Those individuals that possess a Resident Roe Fish Permit/Supplement (Type 108) shall have priority to renew that permit by March 15 of each license year until he/she fails to renew the permit.

Authority: TCA §§70-1-206 and 70-2-301. **Administrative History:** Original rule filed _____; effective _____.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Chad Baker	✓				
Angela Box	✓				
Jeff Cook	✓				
Bill Cox	✓				
Dennis Gardner	✓				
Kurt Holbert	✓				
Connie King	✓				
Brian McLerran	✓				
James Stroud	✓				
Bill Swan	✓				
Tony Sanders	✓				
Kent Woods	✓				
Jamie Woodson	✓				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Fish & Wildlife Commission on 05/24/2017 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 03/31/2017

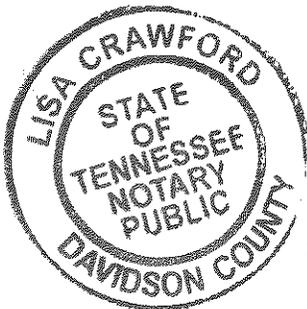
Rulemaking Hearing(s) Conducted on: (add more dates). 05/24/2017

Date: 5/24/17

Signature: Ed Carter

Name of Officer: Ed Carter

Title of Officer: Executive Director



Subscribed and sworn to before me on: 5.24.17

Notary Public Signature: Lisa Crawford

My commission expires on: 3-10-2019

All rulemaking hearing rules provided for herein (TWRA Rules and Regulations Governing Commercial Fishing and Wholesale Fish Dealers) have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slattery III
Herbert H. Slattery III
Attorney General and Reporter

7/6/2017
Date

Department of State Use Only

Filed with the Department of State on: 7/14/17

Effective on: 10/12/17

Tre Hargett
Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Tennessee Wildlife Resources Agency

DIVISION: Fisheries

SUBJECT: Commercial Musseling - Possession and Sales of Undersized Shells / Mussel Fee / Importation and Exportation

STATUTORY AUTHORITY: No federal or state law or regulation has mandated the promulgation of this rule.

EFFECTIVE DATES: October 12, 2017 through June 30, 2018

FISCAL IMPACT: None

STAFF RULE ABSTRACT: This rulemaking hearing rule states that a valid license must be purchased before mussels can be harvested and sold. The rule describes the fee associated with the sale of mussels described by law that must be paid to the Tennessee Wildlife Resources Agency on mussels taken from Tennessee waters and sold either in-state or out-of-state. The rule also outlines what is required for the bill of lading when a business is importing and/or exporting all shipments of mussels.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

PUBLIC COMMENTS AND RESPONSES

Comment: No written or verbal comments were received by the Commission.

Response: N/A

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

(1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule;

Response: The Commission anticipates no negative impact to commercial musselers or wholesale mussel dealers. For FY 2016, there were 43 licensed commercial musselers and 3 licensed wholesale mussel dealers that complied with Proclamation 16-42 (Statewide Proclamation on the Commercial taking, possessing, and selling of mussels) while conducting the business of commercial harvest, buying and/or selling of legal commercial species. Sections of existing proclamation are being moved to this commercial mussel rule, and this will not result in any new costs.

(2) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record;

Response: The Commission anticipates no change in reporting, recordkeeping, or other administrative costs to incorporate the proposed rule change into the existing the TWRA system.

(3) A statement of the probable effect on impacted small businesses and consumers;

Response: The Commission anticipates no negative impact to commercial musselers or wholesale mussel dealers as the language regulating there businesses already exists under statute and proclamation and is not being amended.

(4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business;

Response: The Commission is unaware of an alternative to the proposed rule and anticipates no negative impacts for commercial musselers or wholesale mussel dealers.

(5) A comparison of the proposed rule with any federal or state counterparts; and

Response: The Commission is not aware of any federal or state counterparts to this rule.

(6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

Response: The commercial musseler and wholesale mussel dealers would not realize any benefit or loss if exempted from this rule.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

Will passage of this rule have a projected financial impact on local governments?

Response: We do not anticipate any significant fiscal impact to local governments as a result of this rule.

Please describe the increase in expenditures or decrease in revenues:

Response: We do not anticipate any increase in expenditures or decrease in revenues.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The rule states that a valid license must be purchased before mussels can be harvested and sold. The rule describes the fee associated with the sale of mussels described by law that must be paid to the Tennessee Wildlife Resources Agency on Mussels taken from Tennessee Waters and sold either in-state or out-of-state. The rule also outlines what is required for the bill of lading when a business is importing and/or exporting all shipments of mussels.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

We are not aware of any federal law or regulation or any state law or regulations that directly relate to this rule.

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The Tennessee Wildlife Resources Agency and commercial fishers and wholesale fish dealers will be affected most directly by this rule. The Tennessee Wildlife Resources Agency is urging adoption of this rule.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

We are not aware of any opinions of the attorney general or any judicial ruling that directly relate to this rule.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

We do not anticipate any significant fiscal impact to the Agency, local or state revenues as a result of this rule amendment.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Eric Ganus, Fisheries Biologist, possesses substantial knowledge and understanding of this rule.
(Eric.Ganus@tn.gov)

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Chris Richardson, TWRA Special Assistant to the Director/Policy and Legislation, will explain the rule at the scheduled meeting of the Government Operations Committee.

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Chris Richardson, Tennessee Wildlife Resources Agency, P.O. Box 40747, Nashville, TN 37204, (615) 837-6016, Chris.Richardson@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

There is no addition relevant information to the rule proposed.

**Department of State
Division of Publications**

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Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 07-19-17
Rule ID(s): 6571
File Date: 7/14/17
Effective Date: 10/12/17

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Wildlife Resources Agency
Division:	Fisheries
Contact Person:	Lisa Crawford
Address:	P.O. Box 40747, Nashville, TN
Zip:	37204
Phone:	615-781-6606
Email:	Lisa.Crawford@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1660-01-31	Commercial Musseling
Rule Number	Rule Title
1660-01-31-.01	Possession and Sales of Undersized Shells
1660-01-31-.02	Mussel Fee
1660-01-31-.03	Importation and Exportation

New Rules

1660-01-31, Rules and Regulations Governing Commercial Musseling, is added as a new rule chapter with the following new rules:

1660-01-31-.01, Possession and Sales of Undersized Shells, is added as a new rule to read as follows:

1660-01-31-.01 Possession and Sales of Undersized Shells

- (1) No person, firm, or corporation shall take, buy, sell, barter, or possess mussels (alive or dead) that are not of the species and sizes listed in the current Statewide Proclamation on the Commercial Taking, Possessing, and Selling of Mussels, or are not legalized by other proclamations, rules, or regulations. No person, firm, or corporation shall be in possession of non-processed freshwater mussels unless they have

New Rules

1660-01-31, Rules and Regulations Governing Commercial Musseling, is added as a new rule chapter with the following new rules:

1660-01-31-.01, Possession and Sales of Undersized Shells, is added as a new rule to read as follows:

1660-01-31-.01 Possession and Sales of Undersized Shells

- (1) No person, firm, or corporation shall take, buy, sell, barter, or possess mussels (alive or dead) that are not of the species and sizes listed in the current Statewide Proclamation on the Commercial Taking, Possessing, and Selling of Mussels, or are not legalized by other proclamations, rules, or regulations. No person, firm, or corporation shall be in possession of non-processed freshwater mussels unless they have in their possession the required commercial musseling license, wholesale mussel dealer license, or pearl culturing license.

Authority: TCA §§70-1-206. Administrative History: Original rule filed _____; effective _____

1660-01-31-.02, Mussel Fee, is added as a new rule to read as follows:

1660-01-31-.02 Mussel Fee

- (1) A fee in the amount prescribed by law must be paid to the Tennessee Wildlife Resources Agency on mussels taken from Tennessee waters.

(a) The procedure for governing the collection of these fees on mussels that are sold to a resident wholesale mussel dealer is as follows:

1. The payment to TWRA shall be calculated from receipts filled out by the wholesale mussel dealer for each transaction. A Mussel Shell Summary Sheet reporting the receipt number, pounds of shells purchased for each transaction, calculated fee payable to TWRA, and the signature of the company official completing the report shall be completed and sent to TWRA by the 15th of the month following the monthly transaction period.
2. Wholesale mussel dealers are required to furnish the musseler with receipts for all mussels acquired on forms provided by TWRA. A receipt will be issued for each transaction when the transaction occurs, and will show the musseler's name, commercial mussel license number, pounds of shells bought by type, size category and harvest location as stated by seller, date of the transaction, signature of buyer or recipient, and signature of the seller.
3. A copy of each receipt shall be kept by the wholesaler for a period of 2 years, and be made available for inspection by TWRA during regular business hours. A copy of each receipt shall be given to the musseler. Musselers must keep their copy of the receipt for a period of 2 years, and make it available for inspection by TWRA.
4. A copy of each receipt issued during a month shall be furnished to TWRA at the Nashville Office by the 15th of the following month.

(b) The procedure governing the collection of these fees on mussels that are not sold to an in-state wholesale mussel dealer is set out as follows:

1. A mussel export form provided by TWRA must be completed by the mussel harvester giving pertinent information including the mussel harvester's name, commercial musseling license number, date of export, pounds of shells by size category, fee due, and money order number, cashier check number, or personal check number used as payment to TWRA.

2. A copy of the mussel export form shall be retained by the mussel harvester and must be on the shipper's person when crossing the state line. A money order, cashier's check, or personal check is the only acceptable means for making a fee payment to TWRA. The receipt or copy of the same from the cashier's check, money order, or personal check used to pay TWRA the fee must be retained by the harvester. The receipt or a copy thereof of the money order, cashier's check, or personal check must also be maintained by the person taking the mussels across the state line.
 3. The original of the mussel export form and a cashier's check, money order, or personal check made out to TWRA for the fee amount must be mailed via U.S. Postal Service to the TWRA, P.O. Box 40747, Nashville, TN 37204, before the mussels are transported or shipped across the state line.
 4. Failure to fill out any part of the mussel export form or falsification of information shall be a violation.
 5. The mussel harvester must retain copies of the mussel export form and copies of payment document (either money order receipt, copy of cashier's check or personal check, or the canceled personal check) for a period of two years and be made available for inspection by TWRA personnel.
- (c) The procedure governing the collection of these fees on mussels that are purchased or otherwise obtained by a resident pearl culture business is as follows:
1. The payment to TWRA shall be calculated from receipts filled out by the pearl culture business for each transaction. A Mussel Shell Summary Sheet reporting the receipt number, pounds of shells purchased for each transaction, calculated fee payable to TWRA, and the signature of the company official completing the report shall be completed and sent to TWRA by the 15th of the month following the monthly transaction period.
 2. A pearl culture business is required to furnish the musseler with receipts for all mussels acquired on forms provided by TWRA.
 - (i) A receipt will be issued for each transaction when the transaction occurs, and will show the musseler's name, commercial musseling license number, pounds of shells bought by type, size category and harvest location as stated by the seller, date of the transaction, signature of the buyer or recipient, and signature of the seller when the mussels obtained are not 3.0 inch to 4.0 inch "washboard" mussels.
 - (ii) A receipt will be issued for each transaction when the transaction occurs, and will show the musseler's name, commercial musseling license number, number of 3.0 inch to 4.0 inch "washboard" mussels, pounds of mussels purchased, pearl culture company name, date of the transaction, and signature of the company official purchasing the mussels.
 3. A copy of each receipt shall be kept by the pearl culture business for a period of 2 years, and be made available for inspection by TWRA during regular business hours. A copy of each receipt shall be given to the musseler. Musselers must keep their copy of the receipt for a period of 2 years, and make it available for inspection by TWRA.
 4. A copy of each receipt issued during a month shall be furnished to TWRA at the Nashville Office by the 15th of the following month.

Authority: TCA §§70-1-206. Administrative History: Original rule filed _____; effective _____

1660-01-31-.03, Importation and Exportation, is added as a new rule to read as follows:

1660-01-31-.03 Importation and Exportation

- (1) All shipments of mussels imported into Tennessee by a person, firm, or corporation shall be accompanied by a bill of lading. The bill of lading shall provide the following:
 - (a) The signature of the person or purchasing agent of the firm or corporation importing the mussels;
 - (b) The signature of the person or purchasing agent of the firm or corporation that sold or otherwise provided the mussels to be imported;
 - (c) The date of shipment;
 - (d) The weight of mussels by size category;
 - (e) The origin of shipment including the name of the body of water where they were harvested; and
 - (f) The destination of shipment.
- (2) A copy of the bill of lading shall remain with the importing person, firm, corporation, or wholesale mussel dealer for a period of two years, and shall be made available to TWRA upon request.
- (3) To export mussels from Tennessee, a completed bill of lading on forms provided by TWRA is required.

Authority: TCA §§70-1-206. **Administrative History:** Original rule filed _____ ; effective _____

- (e) The origin of shipment including the name of the body of water where they were harvested; and
 - (f) The destination of shipment.
- (2) A copy of the bill of lading shall remain with the importing person, firm, corporation, or wholesale mussel dealer for a period of two years, and shall be made available to TWRA upon request.
- (3) To export mussels from Tennessee, a completed bill of lading on forms provided by TWRA is required.

Authority: TCA §§70-1-206. **Administrative History:** Original rule filed _____; effective _____.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Chad Baker	✓				
Angela Box	✓				
Jeff Cook	✓				
Bill Cox	✓				
Dennis Gardner	✓				
Kurt Holbert	✓				
Connie King	✓				
Brian McLerran	✓				
James Stroud	✓				
Bill Swan	✓				
Tony Sanders	✓				
Kent Woods	✓				
Jamie Woodson	✓				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Fish & Wildlife Commission on 05/24/2017 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 03/31/2017

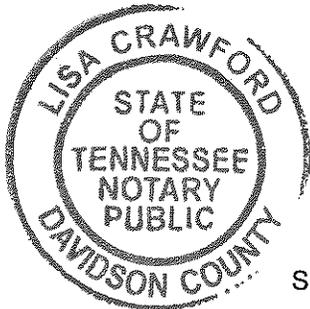
Rulemaking Hearing(s) Conducted on: (add more dates), 05/24/2017

Date: 5/24/17

Signature: Ed Carter

Name of Officer: Ed Carter

Title of Officer: Executive Director



Subscribed and sworn to before me on: 5.24.17

Notary Public Signature: Lisa Crawford

My commission expires on: 3-10-2019

All rulemaking hearing rules provided for herein (TWRA Rules and Regulations Governing Commercial Musseling) have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter
7/6/2017 Date

Department of State Use Only

Filed with the Department of State on: 7/14/17

Effective on: 10/12/17

Tre Hargett
Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Tennessee Wildlife Resources Agency

DIVISION: Legal

SUBJECT: Access to Public Records

STATUTORY AUTHORITY: Guidelines for the adoption of a policy for public access to public records can be found at TCA §10-7-503 et seq.

EFFECTIVE DATES: October 15, 2017 through June 30, 2018

FISCAL IMPACT: None

STAFF RULE ABSTRACT: This rulemaking hearing rule repeals the agency's rules for access to public records. In order to comply with changes to the Tennessee Public Records Act, TCA §10-7-503 et seq. passed in Public Chapter 722 during the 2016 session, the agency has adopted a policy and is repealing the rules so that there will be no conflicting information that could confuse the public.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

PUBLIC COMMENTS AND RESPONSES

Comment: No written or verbal comments were received by the Commission.

Response: N/A

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

(1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule;

The commission anticipates that no small businesses shall be affected by the repeal of the rule. The repeal of the rule is in compliance with changes made to the Tennessee Public Records Act found at TCA §10-7-503 et seq. and a policy has been implemented in accordance with those changes. The rule has been repealed since it is no longer needed and to ensure that there are no conflicts with the new policy and changes to the law, and to ensure that any further changes are made quickly so as to prevent any confusion by the public.

(2) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record;

The commission anticipates no additional reporting, record keeping or other administrative costs.

(3) A statement of the probable effect on impacted small businesses and consumers;

The commission anticipates no impact on small businesses and consumers.

(4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business;

The Commission is unaware of alternatives to the proposed rule and does not believe repealing the rule, as proposed, would in any way affect small businesses.

(5) A comparison of the proposed rule with any federal or state counterparts; and

The Commission is unaware of federal or state counterparts to this rule.

(6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

N/A

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

Will passage of this rule have a projected financial impact on local governments?

No.

Please describe the increase in expenditures or decrease in revenues:

N/A

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This repeals the agency's rules for access to public records. In order to comply with changes to the Tennessee Public Records Act, TCA §10-7-503 et seq. passed in Public Chapter 722 during the 2016 session, the agency has adopted a policy and wishes to repeal the rules so that there will be no conflicting information that could confuse the public.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Guidelines for the adoption of a policy for public access to public records can be found at TCA §10-7-503 et seq.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Businesses and the general public who wish access to agency records are most directly affected by this rule. Since an almost identical policy will replace the rule, and since most of what is contained in the policy is set out in statute, no one should either urge adoption or rejection of the rule.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

We are not aware of any opinions of the attorney general or any judicial ruling that directly relate to this rule.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

There will be no fiscal impact as a result of this repeal of this rule.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Tracey E. Boyers, Attorney, tracey.e.boyers@tn.gov, 615-781-6657

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Chris Richardson, TWRA Special Assistant to the Director/Policy and Legislation, will explain the rule at the scheduled meeting of the Government Operations Committee.

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Chris Richardson, Tennessee Wildlife Resources Agency, P.O. Box 40747, Nashville, TN 37204, (615) 837-6016, Chris.Richardson@tn.gov

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

n/a

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 Nashville, TN 37243
 Phone: 615-741-2650
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For Department of State Use Only

Sequence Number: 07-21-17
 Rule ID(s): 6572
 File Date: 7/17/17
 Effective Date: 10/15/17

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Wildlife Resources Agency
Division:	Legal
Contact Person:	Lisa Crawford
Address:	PO Box 40747, Nashville, TN
Zip:	37204
Phone:	615-781-6606
Email:	Lisa.Crawford@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1660-03-01	Rules and Regulations Governing Access to Public Records
Rule Number	Rule Title
1660-03-01-.01	Charges for Access to Public Records
1660-03-01-.02	Requests for Access to Public Records
1660-03-01-.03	Requests for Reproduction of Public Records
1660-03-01-.04	Waiver of Fees
1660-03-01-.05	Reduction of Fees
1660-03-01-.06	Payment for Records

Repeal

1660-03-01-.01, Charges For Access To Public Records, shall be repealed in its entirety.

Authority: T.C.A. §§69-9-209; 70-1-206; 10-7-501, et seq.; and 2008 Public Chapter 1179.
 Administrative History: Original rule filed February 22, 2010; effective May 23, 2010.

Repeal

Repeal

1660-03-01-.01, Charges For Access To Public Records, shall be repealed in its entirety.

~~Upon a request for records under Tennessee's Public Records Act, Tenn. Code Ann. § 10-7-501 et seq., the Agency shall assess charges for the copying and labor based on the most current version of the Schedule of Reasonable Charges, issued by the Office of Open Records Counsel, available at <http://www.comptroller.state.tn.us/openrecords/index.htm>.~~

Authority: T.C.A. §§69-9-209; 70-1-206; 10-7-501, et seq.; and 2008 Public Chapter 1179.
Administrative History: Original rule filed February 22, 2010; effective May 23, 2010.

Repeal

1660-03-01-.02, Requests For Access To Records, shall be repealed in its entirety.

- ~~(1) A request for access to public records shall be made during the regular business hours of the agency from 8:00 AM to 4:30 PM, Monday through Friday, except for holidays.~~
- ~~(2) Requests may be made in writing to the office of the Executive Director and shall identify with reasonable specificity the record, set or system of records which is requested. Records requests will be processed on a first come, first served basis, provided, that the Executive Director, or his designee, may at any time alter this provision when circumstances warrant.~~
- ~~(3) Prior Review and Assessment for Confidential, Privileged or Protected Material/Non-Routine Requests.
 - ~~(a) Review, Assessment and Redaction for Access to Records Requests.
 - ~~1. Before providing access to the requested record, agency staff shall review the requested record or records as quickly as reasonably possible, consistent with the availability of appropriate staff and with regard to the scope of the records request, and make an assessment of the status of the records and the scope of the requested access.~~
 - ~~2. Upon review, agency staff may redact any such data or information prior to release of the record, or portion of the record, that it has reason to believe has or may have confidential, privileged or otherwise protected material in the record that is subject to the Tennessee Public Records Act.~~~~
 - ~~(b) If the agency determines that none of the provisions of subparagraph (c) below apply and access can otherwise be provided immediately, it shall do so.~~
 - ~~(c) If it appears from the agency's review and assessment that access to the record, or the system of records, cannot be provided immediately because:
 - ~~1. Additional time is required to locate and retrieve the records because the records are not stored on the site or cannot be located;~~
 - ~~2. The record or records require redaction of confidential, privileged or otherwise protected material;~~
 - ~~3. The record is subject to current use as part of an on-going investigation and cannot be provided without interrupting or jeopardizing the investigation;~~
 - ~~4. A computer or computer system that contains the record is unable to be accessed, is undergoing maintenance or re-programming for any agency program purposes, and/or cannot be accessed without substantially interfering with the delivery of services to the public or without damage to the integrity, operability or functioning of any computer or computer system;~~~~~~

5. ~~Production of the record or records will require development of a program or application to provide access to, or a readable format for access to, electronic or magnetic sources of the record or records; or~~
6. ~~For any other reason, then the agency shall inform the requesting person of the assessment and the reasonable approximate time required in complying with the request and a summary of the basis for the assessment regarding access to the records.~~

Authority: T.C.A. §§69-9-209; 70-1-206; 10-7-501, et seq.; and 2008 Public Chapter 1179.
Administrative History: Original rule filed February 22, 2010; effective May 23, 2010.

Repeal

1660-03-01-.03, Requests For Reproduction Of Records, shall be repealed in its entirety.

- (1) ~~A request for copies of public records shall be made during the regular business hours of the agency from 8:00 AM to 4:30 PM, Monday through Friday, except for holidays.~~
- (2) ~~Requests may be made in writing to the office of the Executive Director and shall identify with reasonable specificity the record, set or system of records which is requested. Records requests will be processed on a first come, first serve basis, provided, that the Executive Director, or his designee, may at any time alter this provision when circumstances warrant.~~
- (3) ~~Prior Review and Assessment for Confidential, Privileged or Protected Material/Non-Routine Copy Requests.~~
 - (a) ~~Review, Assessment and Redaction of Records for Copy Request.~~
 1. ~~Before reproducing copies of the requested record, agency staff shall review the requested record or records as quickly as reasonably possible consistent with the availability of appropriate staff and with regard to the scope of the records request and shall make an assessment of the status and scope of the copy request and the difficulty and costs for copies of, or for preparing, any records to determine if the request will require that "routine" or "non-routine" copies, as defined in Rule 1240-09-01-.02, or a combination thereof, be provided.~~
 2. ~~Upon review, agency staff may redact any such data or information prior to release of the record, or portion of the record, that it has reason to believe has or that may have confidential, privileged or otherwise protected material in the record that is subject to the Tennessee Public Records Act.~~
 - (b) ~~If the agency determines that none of the provisions of subparagraph (c) apply and copies can otherwise be provided immediately, it shall do so. If the reproduction of copies of the records is requested and the request involves the reproduction of "routine" copies, it shall inform the requesting person and shall make such records available to the requesting person as soon as reasonably possible.~~
 - (c) ~~If it appears from the agency's assessment that reproduction of the record, or the system of records, cannot be provided immediately because:~~
 1. ~~Additional time is required to locate and retrieve the records because the records are not stored on the site or cannot be located;~~
 2. ~~The record or records require redaction of confidential, privileged or otherwise protected material;~~
 3. ~~The record is subject to current use as part of an on-going investigation and cannot be provided without interrupting or jeopardizing the investigation;~~
 4. ~~A computer or computer system that contains the record is unable to be~~

~~accessed, is undergoing maintenance or re-programming for any agency program purposes, and/or cannot be reproduced without substantially interfering with the delivery of services to the public or without damage to the integrity, operability or functioning of any computer or computer system;~~

- ~~5. — Reproduction of the record or records will require development of a program or application to provide copies, in a readable format from, electronic or magnetic sources of the record or records, or that the person or entity has requested copies of the record in a specific format, and that such program, application or format does not currently exist; or~~
- ~~6. — For any other reason, then the agency shall inform the requesting person of the assessment and the reasonable approximate time required and costs involved in complying with the request and a summary of the basis for the assessment regarding the reproduction of copies of the records.~~

Authority: T.C.A. §§69-9-209; 70-1-206; 10-7-501, et seq.; and 2008 Public Chapter 1179.
Administrative History: Original rule filed February 22, 2010; effective May 23, 2010.

Repeal

1660-03-01-.04, Waiver Of Fees, shall be repealed in its entirety.

~~Should any charge assessed under Rule Chapter 1660-03-01 total ten (\$10.00) dollars or less, the Agency may waive the charge and provide the requested documents without payment. Pursuant to T.C.A. Section 70-1-304, the Executive Director will publish, without charge, the hunting, fishing and trapping laws, for general distribution and information.~~

Authority: T.C.A. §§69-9-209; 70-1-206; 10-7-501, et seq.; and 2008 Public Chapter 1179.
Administrative History: Original rule filed February 22, 2010; effective May 23, 2010.

Repeal

1660-03-01-.05, Reduction Of Fees, shall be repealed in its entirety.

~~The Executive Director, or his or her designee, may waive or reduce any part of the fees calculated under these rules upon a written determination that such waiver or reduction would be in the best interests of the public.~~

Authority: T.C.A. §§69-9-209; 70-1-206; 10-7-501, et seq.; and 2008 Public Chapter 1179.
Administrative History: Original rule filed February 22, 2010; effective May 23, 2010.

Repeal

1660-03-01-.06, Payment For Records, shall be repealed in its entirety.

- ~~(1) — Prior to copies being made, or prior to developing a specific format for the reproduction of records, payment in full must be made to the agency, unless the payment is waived or delayed.~~
- ~~(2) — Payment shall be made for payment of the costs of reproducing records only by cash, cashier's check, money order, or credit card.~~
- ~~(3) — The cashier's check or money order shall be made payable to the Tennessee Wildlife Resources Agency and must be delivered to the agency sales office at:~~

~~TWRA Agency Sales
Ray Bell Region II Office Building
5105 Edmondson Pike
PO Box 41489
Nashville, TN 37204~~

Authority: T.C.A. §§69-9-209; 70-1-206; 10-7-501, et seq.; and 2008 Public Chapter 1179.

Administrative History: Original rule filed February 22, 2010; effective May 23, 2010.

1660-03-01-.02, Requests For Access To Records, shall be repealed in its entirety.

Authority: T.C.A. §§69-9-209; 70-1-206; 10-7-501, et seq., and 2008 Public Chapter 1179.
Administrative History: Original rule filed February 22, 2010; effective May 23, 2010.

Repeal

1660-03-01-.03, Requests For Reproduction Of Records, shall be repealed in its entirety.

Authority: T.C.A. §§69-9-209; 70-1-206; 10-7-501, et seq.; and 2008 Public Chapter 1179.
Administrative History: Original rule filed February 22, 2010; effective May 23, 2010.

Repeal

1660-03-01-.04, Waiver Of Fees, shall be repealed in its entirety.

Authority: T.C.A. §§69-9-209; 70-1-206; 10-7-501, et seq.; and 2008 Public Chapter 1179.
Administrative History: Original rule filed February 22, 2010; effective May 23, 2010.

Repeal

1660-03-01-.05, Reduction Of Fees, shall be repealed in its entirety.

Authority: T.C.A. §§69-9-209; 70-1-206; 10-7-501, et seq.; and 2008 Public Chapter 1179.
Administrative History: Original rule filed February 22, 2010; effective May 23, 2010.

Repeal

1660-03-01-.06, Payment For Records, shall be repealed in its entirety.

Authority: T.C.A. §§69-9-209; 70-1-206; 10-7-501, et seq.; and 2008 Public Chapter 1179.
Administrative History: Original rule filed February 22, 2010; effective May 23, 2010.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Chad Baker	✓				
Jim Bledsoe	✓				
Harold Cannon	✓				
Jeff Cook	✓				
Bill Cox	✓				
Kurt Holbert	✓				
Connie King	✓				
Jeff McMillan	✓				
Jim Ripley	✓				
Bill Swan	✓				
Trey Teague	✓				
David Watson	✓				
Jamie Woodson	✓				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Fish & Wildlife Commission on 02/17/2017 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 12/14/2016

Rulemaking Hearing(s) Conducted on: (add more dates). 02/17/2017

Date: 6/20/17

Signature: Ed Carter

Name of Officer: Ed Carter

Title of Officer: Executive Director



Subscribed and sworn to before me on: 6-20-17

Notary Public Signature: Lisa Crawford

My commission expires on: 03-10-2019

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter

6/30/2017
Date

Department of State Use Only

Filed with the Department of State on: 7/17/17

Effective on: 10/19/17

Tre Hargett
Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: State Board of Equalization

DIVISION:

SUBJECT: Contested Case Procedures; Hearing Fee Changes

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 67-5-1501(d)(1)

EFFECTIVE DATES: October 3, 2017 through June 30, 2018

FISCAL IMPACT: No fiscal impact anticipated.

STAFF RULE ABSTRACT: These proposed amendments (1) clarify that the Uniform Standards of Professional Appraisal Practice do not apply to valuation analyses prepared by an assessing authority or agent, (2) clarify that the State Licensing and Certified Real Estate Appraisers Law only applies to an assessing authority or agent when that assessing authority or agent appears in the capacity of a real estate appraiser, (3) mandates disclosure of employment or other financial relationships between a party or a person or entity representing a party to the opposing party in an appeal and to the Board, Commission or administrative judge; (4) states that, if a witness is receiving any compensation from either a party or a person or entity representing either party, the witness shall be subject to examination or cross-examination regarding the employment and the issue of possible bias, which shall be addressed in a specific finding, and (4) updates the hearing fee provision in contested cases based on Public Chapter 938, signed into law on April 27, 2016.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable

No comments received at public hearing on April 20, 2017.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

(Insert statement here)

These rule amendments do not affect small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

(Insert statement here)

These rule amendments will not impact local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

These proposed amendments (1) clarify that the Uniform Standards of Professional Appraisal Practice do not apply to valuation analyses prepared by an assessing authority or agent, (2) clarify that the State Licensing and Certified Real Estate Appraisers Law only applies to an assessing authority or agent when that assessing authority or agent appears in the capacity of a real estate appraiser, (3) mandates disclosure of employment or other financial relationships between a party or a person or entity representing a party to the opposing party in an appeal and to the Board, Commission or administrative judge; (4) states that, if a witness is receiving any compensation from either a party or a person or entity representing either party, the witness shall be subject to examination or cross-examination regarding the employment and the issue of possible bias, which shall be addressed in a specific finding, and (4) updates the hearing fee provision in contested cases based on Public Chapter 938, signed into law on April 27, 2016.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Tenn. Code Ann. § 67-5-1501(d)(1) was amended in 2016 to change the requirements for the refund of hearing costs.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Comptroller of the Treasury, Division of Property Assessments and State Board of Equalization; registered agents and attorneys who represent taxpayers in property tax appeals. Those entities urge adoption of this rule.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

None

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

No fiscal impact anticipated.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Stephanie Maxwell, General Counsel to the Comptroller; Betsy Knotts, State Board of Equalization

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Stephanie Maxwell, General Counsel to the Comptroller; Betsy Knotts, State Board of Equalization

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Stephanie Maxwell, General Counsel to the Comptroller, 505 Deaderick St., Suite 1700, Nashville, TN 37243, (615) 401-7964, stephanie.maxwell@cot.tn.gov

Betsy Knotts, Executive Secretary, State Board of Equalization, Comptroller of the Treasury | 9th Floor, W.R. Snodgrass TN Tower, 312 Rosa L. Parks Avenue | Nashville, TN 37243 - 1102
betsy.knotts@cot.tn.gov (615) 401-7954

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

Available upon request.

**Department of State
Division of Publications**

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Nashville, TN 37243
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Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 07-08-17
Rule ID(s): 6561
File Date: 7/5/17
Effective Date: 10/3/17

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	State Board of Equalization
Division:	
Contact Person:	Betsy Knotts, Executive Secretary
Address:	312 Rosa L Parks Ave, Ste 900, Nashville, TN
Zip:	37243-1102
Phone:	615-401-7883
Email:	betsy.knotts@cot.tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0600-01	Contested Case Procedures
Rule Number	Rule Title
0600-01-.01	Definitions
0600-01-.05	Conduct of Hearings
0600-01-.07	Representation by Agent
0600-01-.17	Fees

Substance of Rule Amendments:

Rule 0600-01-.01 is amended by adding the following language as new paragraphs:

- (11) "Real estate appraiser" means a person who is subject to the State Licensing and Certified Real Estate Appraisers Law, codified at T.C.A. § 62-39-101, et seq.
- (12) "Valuation analysis" means an estimate of value for ad valorem tax purposes which is prepared in conjunction with a contested case before the Board, Commission, or administrative judge.

Authority: T.C.A. §§ 4-5-217, 67-1-305, and 67-5-1514

(Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to http://sos.in.gov/sites/default/files/forms/Rulamaking_Guidelines_August2014.pdf

Rule 0600-01-.01 is amended by adding the following language as new paragraphs:

- (11) "Real estate appraiser" means a person who is subject to the State Licensing and Certified Real Estate Appraisers Law, codified at T.C.A. § 62-39-101, et seq.
- (12) "Valuation analysis" means an estimate of value for ad valorem tax purposes which is prepared in conjunction with a contested case before the Board, Commission, or administrative judge.

Authority: T.C.A. §§ 4-5-217, 67-1-305, and 67-5-1514. **Administrative History:** Original rule certified June 7, 1974. Repeal filed and effective July 1, 1984. New rule filed June 30, 2000; effective September 12, 2000.

Rule 0600-01-.05 would be amended by adding the following language:

RESERVED CONDUCT OF HEARINGS.

- (1) The Board, Commission, or administrative judge shall not require an assessing authority or an agent to be compliant with the Uniform Standards of Professional Appraisal Practice ("USPAP") or the State Licensing and Certified Real Estate Appraisers Law when the assessing authority or the agent prepares a valuation analysis.
- (2) Any individual appearing as a real estate appraiser before the Board, Commission, or administrative judge shall comply with all provisions of the State Licensing and Certified Real Estate Appraisers Law. An assessing authority or an agent is not required to be a licensed real estate appraiser to testify as to valuation before the Board, Commission, or administrative judge.

Authority: T.C.A. §§ 4-5-217, 67-1-305, and 67-5-1514. **Administrative History:** Original rule certified June 7, 1974. Repeal filed and effective July 1, 1984. New rule filed June 30, 2000; effective September 12, 2000.

Rule 0600-01-.07 would be amended by adding the following language as a new paragraph (5):

- (5) All witnesses who testify shall disclose their employment or other financial relationship with either party or a person or entity representing a party in an appeal to the opposing party and the Board, Commission, or administrative judge. All witnesses receiving any compensation from either party or a person or entity representing a party in an appeal shall be subject to examination or cross-examination regarding such employment and the issue of possible bias, which may be addressed in a specific finding by the Board, Commission or administrative judge.

Authority: T.C.A. §§ 4-5-217, 67-1-305, and 67-5-1514. **Administrative History:** Original rule certified June 7, 1974. Repeal filed and effective July 1, 1984. New rule filed June 30, 2000; effective September 12, 2000.

Rule 0600-01-.17 would be amended by deleting paragraph (5) in its entirety and substituting instead the following:

- (5) Hearing fees are refundable if: a) a matter is withdrawn or concluded by entry of an agreed order of the Board prior to a scheduled hearing; b) if the appellant obtains relief equal to half or more of the relief claimed; provided that if relief awarded equals less than half claimed, hearing fees will

Formatted: List Paragraph, Indent: Left: 0.5", Hanging: 0.5", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

be one-half (1/2) of the amount paid by the appellant for hearing costs. An additional processing fee of ten dollars (\$10) per parcel shall be due for settlements. Hearing fees are refundable: a) if a matter is withdrawn or concluded by entry of an agreed order of the Board prior to a scheduled hearing; b) if the appellant obtains relief equal to half or more of the relief claimed, provided that if relief awarded equals less than half claimed, hearing fees will be refunded in proportion to the amount of relief awarded. To the extent hearing fees are refunded on the basis of relief granted after a hearing, the non-prevailing party to the appeal will be assessed such fees. An additional processing fee of ten dollars (\$10) per parcel shall be due for settlements.

Authority: T.C.A. §§67-1-305 and 67-5-1501(d). **Administrative History:** Original rule filed April 30, 2004; effective July 14, 2004. Amendments file February 1, 2011; to have been effective May 2, 2011.

Rule 0600-01-.05 would be amended by adding the following language:

CONDUCT OF HEARINGS

- (1) The Board, Commission, or administrative judge shall not require an assessing authority or an agent to be compliant with the Uniform Standards of Professional Appraisal Practice ("USPAP") or the State Licensing and Certified Real Estate Appraisers Law when the assessing authority or the agent prepares a valuation analysis.
- (2) Any individual appearing as a real estate appraiser before the Board, Commission, or administrative judge shall comply with all provisions of the State Licensing and Certified Real Estate Appraisers Law. An assessing authority or an agent is not required to be a licensed real estate appraiser to testify as to valuation before the Board, Commission, or administrative judge.

Authority: T.C.A. §§ 4-5-217, 67-1-305, and 67-5-1514

Rule 0600-01-.07 would be amended by adding the following language as a new paragraph (5):

- (5) All witnesses who testify shall disclose their employment or other financial relationship with either party or a person or entity representing a party in an appeal to the opposing party and the Board, Commission, or administrative judge. All witnesses receiving any compensation from either party or a person or entity representing a party in an appeal shall be subject to examination or cross-examination regarding such employment and the issue of possible bias, which may be addressed in a specific finding by the Board, Commission, or administrative judge.

Authority: T.C.A. §§ 4-5-217, 67-1-305, and 67-5-1514

Rule 0600-01-.17 would be amended by deleting paragraph (5) in its entirety and substituting instead the following:

- (5) Hearing fees are refundable. a) if a matter is withdrawn or concluded by entry of an agreed order of the Board prior to a scheduled hearing; b) if the appellant obtains relief equal to half or more of the relief claimed, provided that if relief awarded equals less than half claimed, hearing fees will be one-half (1/2) of the amount paid by the appellant for hearing costs. An additional processing fee of ten dollars (\$10) per parcel shall be due for settlements.

Authority: T.C.A. §§ 67-1-305 and 67-5-1501(d)

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Bennett	X				
Burchett	X				
Hargett	X				
Lillard	X				
Gerregano	X				
Tarwater	X				
Wilson	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the State Board of Equalization on 04/20/2017 and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 08/09/2016

Rulemaking Hearing(s) Conducted on: (add more dates). 09/26/2016 and 4/20/2017

Date: 12th May 2017

Signature: G. Knotts

Name of Officer: Betsy Knotts

Title of Officer: Executive Secretary, SBOE

Subscribed and sworn to before me on: 12 May 2017



Signature: Shirley Marriott

My commission expires on: 08 MAY 2018

Agency/Board/Commission: State Board of Equalization

Chapter Number	Chapter Title
0600-01	Contested Case Procedures
Rule Number	Rule Title
0600-01-01	Definitions
0600-01-05	Conduct of Hearings
0600-01-07	Representation by Agent
0600-01-17	Fees

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter
6/27/2017
Date

Department of State Use Only

Filed with the Department of State on: 7/5/17

Effective on: 10/3/17

Tre Hargett
Tre Hargett
Secretary of State

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SECRETARY OF STATE
PUBLICATIONS

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: State Board of Equalization

DIVISION:

SUBJECT: Tax Relief

STATUTORY AUTHORITY: Tennessee Code Annotated, Title 67, Chapter 5, Part 7

EFFECTIVE DATES: October 3, 2017 through June 30, 2018

FISCAL IMPACT: These rule amendments should not result in any increase or decrease in state and local government revenues and expenditures.

STAFF RULE ABSTRACT: These proposed amendments (1) simplify the processing of tax relief applications (2) clarify deadlines for tax relief applicants and (3) correct typographical errors and update internal references.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable

No comments were made at the Public Hearing.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

(Insert statement here)

These rule amendments do not affect small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

(Insert statement here)

These rule amendments will not impact local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

These proposed amendments (1) simplify the processing of tax relief applications (2) clarify deadlines for tax relief applicants and (3) correct typographical errors and update internal references.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Tennessee Code Annotated, Title 67, Chapter 5, Part 7 prescribes the general requirements for the Tax Relief program.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Staff within the Comptroller's Division of Property Assessments who process Tax Relief applications and local collecting officials. No comments received.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

None.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

These rule amendments should not result in any increase or decrease in state and local government revenues and expenditures.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Stephanie Maxwell, General Counsel to the Comptroller

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Stephanie Maxwell, General Counsel to the Comptroller

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Stephanie Maxwell, General Counsel to the Comptroller, 505 Deaderick St., Suite 1700, Nashville, TN 37243, (615) 401-7964, stephanie.maxwellL@cot.tn.gov

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

Available upon request.

**Department of State
Division of Publications**

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Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 07-09-17
Rule ID(s): 6562
File Date: 7/5/17
Effective Date: 10/3/17

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	State Board of Equalization
Division:	
Contact Person:	Betsy Knotts, Executive Secretary
Address:	312 Rosa L Parks Ave, Ste 900, Nashville, TN
Zip:	37243-1102
Phone:	615-401-7883
Email:	betsy.knotts@cot.tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0600-03	Tax Relief
Rule Number	Rule Title
0600-03-.01	Determination of Reimbursable State or Local Property Taxes Provided by Tax Relief Program
0600-03-.02	Definitions
0600-03-.03	Age Requirement
0600-03-.04	Disability Requirement (Non-Veteran)
0600-03-.06	Widow(er) of Disabled Veteran Requirement
0600-03-.07	Certification of Ownership and Residency
0600-03-.08	Income Requirement
0600-03-.11	Acceptance of Property Tax Relief Applications

(Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to http://sos.tn.gov/sites/default/files/forms/Rulemaking_Guidelines_August2014.pdf)

Rule 0600-03-.01 is amended by deleting "T.C.A. § 67-673" and substituting in its place "T.C.A. §§ 67-5-701 through 67-5-704":

The State Board of Equalization through the Division of Property Assessments is responsible, under T.C.A. § 67-673 T.C.A. §§ 67-5-701 through 67-5-704, for establishing rules and regulations for implementation of the tax relief program.

Authority: T.C.A. §§ 67-5-701 through 67-5-704.

Rule 0600-03-.02(1) is amended by deleting the comma after "Taxpayer" and by deleting the second sentence:

- (1) "Taxpayer" is hereby defined to be the applicant, except for determination of income. The income from all owners of the property shall be considered.

Authority: T.C.A. §§ 67-5-701 through 67-5-704.

Rule 0600-03-.02 is amended by deleting paragraph (2) in its entirety:

- ~~(2) "Single family dwelling" is hereby defined to include a duplex in which the property owner resides.~~

Authority: T.C.A. §§ 67-5-701 through 67-5-704.

Rule 0600-03-.02(3) is amended by inserting the word "a" between "for" and "continuous".

- (3) "Disability", with respect to a non-veteran, is hereby defined as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months.

Authority: T.C.A. §§ 67-5-701 through 67-5-704.

Rule 0600-03-.02(4) is amended by deleting the phrase "which specifies all pertinent data and contains the valid signature of all parties thereto.":

- (4) "Affidavit" is hereby defined as a notarized statement under oath which specifies all pertinent data and contains the valid signature of all parties thereto.

Authority: T.C.A. §§ 67-5-701 through 67-5-704.

Rule 0600-03-.02(8) is amended by deleting paragraph (8) in its entirety and replacing it with the following language: "'Division" or "Division of Property Assessments" shall mean the Division of Property Assessments in the Office of the Comptroller of the Treasury created by T.C.A. § 67-1-201."

- ~~(8) "Division" is hereby defined as the Division of Property Assessments, Tax Relief Section, "Division" or "Division of Property Assessments" shall mean the Division of Property Assessments in the Office of the Comptroller of the Treasury created by T.C.A. § 67-1-201.~~

Authority: T.C.A. §§ 67-5-701 through 67-5-704.

Rule 0600-03-.02(9) is amended by inserting a comma after the first "or":

- (9) "Collecting Official" means the county trustee or, in the case of taxes due a municipality, the county trustee or other official responsible for collection of property taxes.

Authority: T.C.A. §§ 67-5-701 through 67-5-704.

Rule 0600-03-.02(10) is amended by deleting paragraph (10) in its entirety and replacing it with the following language: "Residence" or "Principal Residence" means the dwelling owned and used by the taxpayer as the taxpayer's legal residence during some part of the given tax year for which tax relief is requested."

- (10) ~~"Residence" or "Principal Residence" means the dwelling owned by the taxpayer and eligible as the taxpayer's legal residence for voting purposes. Principal residence shall be determined in accordance with the principles set forth by Tenn. Code Ann. § 2-2-122. "Residence" or "Principal Residence" means the dwelling owned and used by the taxpayer as the taxpayer's legal residence during some part of the given tax year for which tax relief is requested.~~

Authority: T.C.A. §§ 67-5-701 through 67-5-704.

Rule 0600-03-.02 is further amended by adding the following language as new sentences:

- () ~~"U.S. Department of Veterans Affairs Aid and Attendance" means that benefit provided to certain veterans under the criteria set forth in 38 C.F.R. § 3.352.~~
- () ~~"Submission Date" means the deadline for submission of applications for refunds or presentment of credit vouchers set forth in T.C.A. § 67-5-701(d)(2).~~

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Authority: T.C.A. §§ 67-5-701 through 67-5-704.

Rule 0600-03-.02 is amended by placing the defined terms in alphabetical order.

Authority: T.C.A. §§ 67-5-701 through 67-5-704.

Rule 0600-03-.03(1) is amended by removing the number (1), adding "or" between "ID;" and "(g)"; and by deleting "; or (h) other evidence submitted and approved by the Division that offers reasonable proof of age of the applicant."

- (4) A taxpayer, in order to satisfy the property tax relief minimum age requirement, must attain age sixty-five (65) on or before December 31 of the year for which property tax relief is requested. Acceptable evidence may include, but is not limited to, (a) copy of birth certificate; (b) copy of a valid driver's license; (c) copy of Medicare card; (d) copy of marriage certificate which states the taxpayer's age; (e) copy of valid passport; (f) copy of valid military ID; ~~or~~ (g) copy of valid census record; ~~or (h) other evidence submitted and approved by the Division that offers reasonable proof of age of the applicant.~~ Acceptable evidence will include verification of the date of birth provided by the Social Security Administration either by direct access or mail.

Authority: T.C.A. §§ 67-5-701 through 67-5-704.

Rule 0600-03-.03(2) is further amended by deleting paragraph (2) in its entirety:

- (2) ~~If one of the above evidences is not available, the taxpayer may submit other evidences for review by the Director of the Division of Property Assessments.~~

Authority: T.C.A. §§ 67-5-701 through 67-5-704.

Rule 0600-03-.04(1) is amended by removing the number (1), deleting "May 31 following the taxing jurisdiction's delinquency date" and substituting in its place "the Submission Date", deleting "Veteran's Administration" and substituting in its place "U.S. Department of Veterans Affairs", and deleting the final sentence:

- (1) A taxpayer, in order to satisfy property tax relief disability requirements, must be totally and permanently disabled during the tax year, and provide evidence of same no later than May 31 ~~following the taxing jurisdiction's delinquency date~~ the Submission Date. Acceptable evidence is written verification from (a) the Social Security Administration; (b) the Tennessee Department of Human Services; (c) the ~~Veteran's Administration~~ U.S. Department of Veterans Affairs; (d) the Railroad Retirement Board; or (e) the duly constituted authority of any governmental or private

entity which does not participate in the Social Security system. Acceptable evidence will include verification of the current disability status provided by the Social Security Administration either by direct access or mail. A duly constituted authority shall be any official body which would be recognized under law to grant benefits to an employee of that entity based on total and permanent disability. If the applicant is not eligible to obtain a written verification from one of the enumerated agencies, he or she may submit statements of a physician or other competent proof sufficient to establish disability in accordance with Social Security criteria for disability in effect at the time of application.

Authority: T.C.A. §§ 67-5-701 through 67-5-704.

Rule 0600-03-.04 is further amended by deleting paragraph (2) in its entirety:

- (2) If a taxpayer has incurred total and permanent disability prior to the delinquency date of the taxing jurisdiction, but written verification cannot be obtained prior to that date, the local collecting official will accept the individual's tax relief application as a disabled homeowner and forward same to the Division of Property Assessments. These applications will be held until written verification is received. Upon receipt and approval of said verification the individual's tax relief application will be processed. Written verification must be received by the Division no later than May 31 following the taxing jurisdiction's delinquency date.

Authority: T.C.A. §§ 67-5-701 through 67-5-704.

Rule 0600-03-.06(1) is amended by deleting "Veteran's Administration" and substituting in its place "U.S. Department of Veterans Affairs", adding "or" between "social security card," and "valid military ID card", and deleting ", etc" at the end of the paragraph:

- (1) Evidence required of a surviving spouse of a disabled veteran for tax relief will be (1) written verification from the ~~Veteran's Administration~~ U.S. Department of Veterans Affairs confirming the deceased veteran's disability; (2) a copy of the disabled veteran's death certificate; (3) ownership documentation; and (4) a form of identification for the surviving spouse, such as a copy of a valid driver's license, Medicare card, social security card, or valid military ID card, etc.

Authority: T.C.A. §§ 67-5-701 through 67-5-704.

Rule 0600-03-.06(2) is amended by deleting "United States Veterans' Administration" and substituting in its place "U.S. Department of Veterans Affairs":

- (2) Where tax relief is extended to the surviving spouse of a veteran whose death results from a service-connected, combat-related cause, as determined by the ~~United States Veterans Administration~~ U.S. Department of Veterans Affairs, evidence required of the surviving spouse shall be a copy of the veteran's death certificate or other evidence submitted and approved by the Division that offers reasonable proof of death.

Authority: T.C.A. §§ 67-5-701 through 67-5-704.

Rule 0600-03-.07(1) is amended by adding a comma between "relief" and "must" and deleting "for applications".

- (1) A taxpayer, in order to qualify for property tax relief, must have owned and used the property as his or her residence during some part of the given tax year for which tax relief is requested. Under no condition shall any taxpayer receive tax relief for property taxes paid on more than one (1) principal residence for any tax year. Evidence of ownership is required and must accompany the application. Acceptable evidence of ownership shall be the following for applications:

Authority: T.C.A. §§ 67-5-701 through 67-5-704.

Rule 0600-03-.07(2) is amended by deleting "through the ownership and income information":

- (2) For the DV, before completing the certification, the collecting official must establish through the ownership and income information the following:

Authority: T.C.A. §§ 67-5-701 through 67-5-704.

Rule 0600-03-.07(2)(a) is amended by deleting the following sentence: "In the event the deed cannot be located, the applicant must submit an affidavit explaining the circumstances under which the applicant became the owner of the property." Rule 0600-03-.07(2)(a) is further amended by deleting "May 31 following the delinquency date for the tax jurisdiction" and substituting in its place "the Submission Date".

- (a) That the applicant is an owner as shown on the current year tax notice or receipt and the type of ownership interest; or if the applicant's name does not appear on the tax notice or receipt, the qualifications of the individual to apply for tax relief and the type of ownership must be evidenced. In the event the deed cannot be located, the applicant must submit an affidavit explaining the circumstances under which the applicant became the owner of the property. The taxpayer must establish that he or she was an owner of the property during the tax year, by evidence submitted no later than May 31 following the delinquency date for the tax jurisdiction the Submission Date.

Authority: T.C.A. §§ 67-5-701 through 67-5-704.

Rule 0600-03-.07(3) is amended by deleting "through the ownership and income information" and adding "that" between "and" and "there":

- (3) For the ACV, before completing the certification, the collecting official must establish through the ownership and income information that the applicant reported information consistent with that of prior years and that there is no reason to believe the applicant misunderstood the instructions;

Authority: T.C.A. §§ 67-5-701 through 67-5-704.

Rule 0600-03-.07(4)(c) is amended by deleting from part 1. the following phrase: "(If a title or bill of sale is not available, an affidavit of purchase or inheritance may be provided.)":

1. A title or bill of sale (if a title or bill of sale is not available, an affidavit of purchase or inheritance may be provided.);

Authority: T.C.A. §§ 67-5-701 through 67-5-704.

Rule 0600-03-.07(4) is further amended by deleting paragraph (e) in its entirety:

- (e) If an eligible property tax relief recipient is relocated due to illness or disability, property tax relief may continue if the recipient intends to return to their home when recovered sufficiently. In determining whether the recipient intends to return to the home, rental of the home does not of itself evidence an intent not to return. If the rental is month-to-month or otherwise short-term consistent with the expected absence, the recipient may nevertheless be deemed to have an intent to return to the home.

Authority: T.C.A. §§ 67-5-701 through 67-5-704.

Rule 0600-03-.08(3) is amended by deleting "AFDC" and inserting "Temporary Assistance for Needy Families, Supplemental Nutrition Assistance Program" in its place, deleting "food stamps," deleting "VA aid and attendance" and inserting "U.S. Department of Veterans Affairs Aid and Attendance" in its place, and deleting "in effect on January 1, 1992":

- (3) Annual income from all sources shall include, but is not limited to, social security payments after the Medicare deduction, social security disability after the Medicare deduction, supplemental security income, retirement and pension benefits after deduction of healthcare insurance premiums, veteran's benefits, worker's compensation, unemployment compensation, salaries and wages, alimony, total interest and total dividends. For income from a business, farm, rental property, estate settlement, sale of securities, or other comparable source, include only the net income or loss after expenses. Documentation of the loss must be provided with the application. Gain or loss from the sale of a principal residence, AFDC Temporary Assistance for Needy Families, Supplemental Nutrition Assistance Program, child support, food stamps, and VA aid

and attendance U.S. Department of Veterans Affairs Aid and Attendance shall not be considered. Except as otherwise provided by statute or these rules, determinations regarding the income of an applicant or owners of property shall be guided by the federal income tax requirements for determining income in effect on January 1, 1992. When determining the income using a tax return, the adjusted gross income amount is used. This amount is added to any income sources specified above which may not be taxable by IRS standards.

Authority: T.C.A. §§ 67-5-701 through 67-5-704.

Rule 0600-03-08(4) is amended by deleting "Veterans Administration" and substituting in its place "U.S. Department of Veterans Affairs", deleting "taxpayer" and substituting in its place "taxpayer's spouse", and deleting the final sentence in its entirety.

(4) Social Security, Railroad Retirement benefits, and Veterans Administration U.S. Department of Veterans Affairs benefits that are required to be paid to a nursing home for the care of the taxpayer taxpayer's spouse, or co-owner(s), shall not be considered as income. Documentation completed by the nursing home administrator or person handling the taxpayer's business must be provided.

Authority: T.C.A. §§ 67-5-701 through 67-5-704.

Rule 0600-03-11(1)(b) is amended by deleting "May 31 following the delinquency date for the tax jurisdiction" and substituting in its place "the Submission Date":

(b) Applications which are to be submitted by the collecting official to the State must be postmarked no later than May 31 following the delinquency date for the tax jurisdiction the Submission Date.

Authority: T.C.A. §§ 67-5-701 through 67-5-704.

Rule 0600-03-11 is further amended by deleting paragraph (4) in its entirety:

(4) Lost Application. If an application (DV or ACV) becomes lost, the collecting official will submit a copy of the original application together with a certification that said copy is a true and correct copy of the original application. This copy should be available from the DV or ACV pending file, and must include copies of all eligibility documents. This provision for lost applications does not supersede the deadline of May 31 following the delinquency date of the tax jurisdiction.

Authority: T.C.A. §§ 67-5-701 through 67-5-704.

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Authority: T.C.A. §§ 67-5-701 through 67-5-704.

Rule 0600-03-.08(3) is amended by deleting "AFDC" and inserting "Temporary Assistance for Needy Families, Supplemental Nutrition Assistance Program" in its place, deleting "food stamps," deleting "VA aid and attendance" and inserting "U.S. Department of Veterans Affairs Aid and Attendance" in its place, and deleting "in effect on January 1, 1992".

Authority: T.C.A. §§ 67-5-701 through 67-5-704.

Rule 0600-03-.08(4) is amended by deleting "Veterans Administration" and substituting in its place "U.S. Department of Veterans Affairs", deleting "taxpayer" and substituting in its place "taxpayer's spouse", and deleting the final sentence in its entirety.

Authority: T.C.A. §§ 67-5-701 through 67-5-704.

Rule 0600-03-.11(1)(b) is amended by deleting "May 31 following the delinquency date for the tax jurisdiction" and substituting in its place "the Submission Date".

Authority: T.C.A. §§ 67-5-701 through 67-5-704.

Rule 0600-03-.11 is further amended by deleting paragraph (4) in its entirety.

Authority: T.C.A. §§ 67-5-701 through 67-5-704.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Bennett	X				
Burchett	X				
Hargett	X				
Lillard	X				
Gerregano	X				
Tarwater	X				
Wilson	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the State Board of Equalization on 04/20/2017 and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 02/06/2017

Rulemaking Hearing(s) Conducted on: (add more dates). 03/31/2017

Date: 6/20/2017

Signature: [Handwritten Signature]

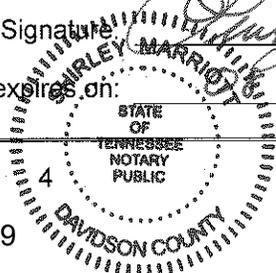
Name of Officer: Betsy Knotts

Title of Officer: Executive Secretary, SBOE

Subscribed and sworn to before me on: 20th June 2017

Notary Public Signature: [Handwritten Signature]

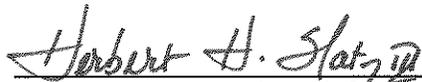
My commission expires on: MAY 2018



Agency/Board/Commission: State Board of Equalization

Chapter Number	Chapter Title
0600-03	Tax Relief
Rule Number	Rule Title
0600-03-.01	Determination of Reimbursable State or Local Property Taxes Provided by Tax Relief Program
0600-03-.02	Definitions
0600-03-.03	Age Requirement
0600-03-.04	Disability Requirement (Non-Veteran)
0600-03-.06	Widow(er) of Disabled Veteran Requirement
0600-03-.07	Certification of Ownership and Residency
0600-03-.08	Income Requirement
0600-03-.11	Acceptance of Property Tax Relief Applications

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.


Herbert H. Statory III
Attorney General and Reporter
6/29/2017 Date

Department of State Use Only

Filed with the Department of State on: 7/5/17

Effective on: 10/3/17


Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Finance and Administration

DIVISION: TennCare

SUBJECT: TennCare Long-Term Care Programs

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 4-5-202, 71-5-105, and 71-5-109

EFFECTIVE DATES: October 1, 2017 through June 30, 2018

FISCAL IMPACT: None

STAFF RULE ABSTRACT: This rulemaking hearing rule is being promulgated to delete redundant language "chronic respiratory failure" which did not add to the effectiveness of the rule.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

There were no comments on this rule.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

The rule is not anticipated to have an effect on small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The rule is not anticipated to have an impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This rule is being promulgated to delete redundant language "chronic respiratory failure", which did not add to the effectiveness of the rule.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The Rule is lawfully adopted by the Bureau of TennCare in accordance with T.C.A. §§ 4-5-202, 71-5-105 and 71-5-109.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The persons and entities most directly affected by this Rule are TennCare enrollees, providers, and managed care contractors. The governmental entity most directly affected by this Rule is the Bureau of TennCare, Tennessee Department of Finance & Administration.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

The Rules were approved by the Tennessee Attorney General. No additional opinion was given or requested.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The promulgation of this rule is not anticipated to have an effect on state and local government revenues and expenditures.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Donna K. Tidwell
Deputy General Counsel

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Donna K. Tidwell
Deputy General Counsel

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

310 Great Circle Road
Nashville, TN 37243
(615) 507-6852
donna.tidwell@tn.gov

(l) Any additional information relevant to the rule proposed for continuation that the committee requests.

--

GW10317124

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Sequence Number: 07-01-17
 Rule ID(s): 6557
 File Date: 7/3/17
 Effective Date: 10/1/17

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Department of Finance & Administration
Division:	Bureau of TennCare
Contact Person:	George Woods
Address:	310 Great Circle Road
Zip:	37243
Phone:	(615) 507-6446
Email:	george.woods@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1200-13-01	TennCare Long-Term Care Programs
Rule Number	Rule Title
1200-13-01-.10	Medical (Level of Care) Eligibility Criteria for TennCare Reimbursement of Care in Nursing Facilities, CHOICES HCBS and PACE

**RULES
OF
TENNESSEE DEPARTMENT OF FINANCE
AND ADMINISTRATION
BUREAU OF TENNCARE**

**CHAPTER 1200-13-01
TENNCARE LONG-TERM CARE PROGRAMS**

1200-13-01-10 MEDICAL (LEVEL OF CARE) ELIGIBILITY CRITERIA FOR TENNCARE REIMBURSEMENT OF CARE IN NURSING FACILITIES, CHOICES HCBS AND PACE.

- (5) Criteria for Medicaid Level 2 and Enhanced Respiratory Care Reimbursement of Care in a NF.
 - (c) In order to be approved for TennCare-reimbursed care in a NF at the Chronic Ventilator rate of reimbursement, an Applicant must be ventilator dependent for at least 12 hours each day with an invasive patient end of the circuit (i.e., tracheostomy cannula). On a case-by-case basis, TennCare may, subject to additional medical review, authorize Chronic Ventilator Reimbursement for an Applicant who is ventilator dependent with a progressive neuromuscular disorder, or spinal cord injury, ~~or chronic respiratory failure~~ and is ventilated using noninvasive positive pressure ventilation (NIPPV) by mask or mouthpiece for at least 12 hours each day in order to avoid or delay tracheostomy.

GW10217055

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Department of Finance & Administration (board/commission/ other authority) on 06/07/2017 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 03/22/17

Rulemaking Hearing(s) Conducted on: (add more dates). 05/16/17



Date: 6/7/17

Signature: Wendy Long

Name of Officer: Wendy Long, M.D., M.P.H.

Director, Bureau of TennCare

Title of Officer: Tennessee Department of Finance & Administration

Subscribed and sworn to before me on: 6/7/17

Notary Public Signature: Robin A. Page

My commission expires on: 11/3/20

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Stately III

Herbert H. Stately III
Attorney General and Reporter

6/29/2017

Date

Department of State Use Only

Filed with the Department of State on: 7/3/17

Effective on: 10/1/17

Tre Hargett

Tre Hargett
Secretary of State

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PUBLICATIONS

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Finance and Administration

DIVISION: TennCare

SUBJECT: TennCare Medicaid definitions

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 4-5-202, 71-5-105, and 71-5-109

EFFECTIVE DATES: October 1, 2017 through June 30, 2018

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: This rulemaking hearing rule is being promulgated to add to the definition of Private Duty Nursing Services (PDN) the eligibility of an enrollee who is ventilator dependent with a progressive neuromuscular disorder or spinal cord injury, and is ventilated using noninvasive positive pressure ventilation by mask or mouthpiece for at least 12 hours each day to avoid or delay tracheostomy to receive PDN services.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

There were no comments on this rule.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

The rule is not anticipated to have an effect on small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The rule is not anticipated to have an impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This rule is being promulgated to add to the definition of Private Duty Nursing Services (PDN) the eligibility of an enrollee who is ventilator dependent with a progressive neuromuscular disorder or spinal cord injury, and is ventilated using noninvasive positive pressure ventilation by mask or mouthpiece for at least 12 hours each day to avoid or delay tracheostomy to receive PDN services.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The Rule is lawfully adopted by the Bureau of TennCare in accordance with T.C.A. §§ 4-5-202, 71-5-105 and 71-5-109.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The persons and entities most directly affected by this Rule are TennCare enrollees, providers, and managed care contractors. The governmental entity most directly affected by this Rule is the Bureau of TennCare, Tennessee Department of Finance & Administration.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

The Rules were approved by the Tennessee Attorney General. No additional opinion was given or requested.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The promulgation of this rule is anticipated to produce a minimal fiscal impact on state revenues and expenditures.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Donna K. Tidwell
Deputy General Counsel

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Donna K. Tidwell
Deputy General Counsel

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

310 Great Circle Road
Nashville, TN 37243
(615) 507-6852
donna.tidwell@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

--

GW10217124

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Sequence Number: 07-02-17
Rule ID(s): 6558
File Date: 7/3/17
Effective Date: 10/1/17

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Department of Finance & Administration
Division:	Bureau of TennCare
Contact Person:	George Woods
Address:	310 Great Circle Road
Zip:	37243
Phone:	(615) 507-6446
Email:	george.woods@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1200-13-13	TennCare Medicaid
Rule Number	Rule Title
1200-13-13-.01	Definitions

RULES
OF
TENNESSEE DEPARTMENT OF FINANCE AND ADMINISTRATION
BUREAU OF TENNCARE

CHAPTER 1200-13-13
TENNCARE MEDICAID

1200-13-13-.01 DEFINITIONS.

(104) PRIVATE DUTY NURSING SERVICES shall mean nursing services for recipients who require eight (8) or more hours of continuous skilled nursing care during a 24-hour period.

- (a) A person who needs intermittent skilled nursing functions at specified intervals, but who does not require continuous skilled nursing care throughout the period between each interval, shall not be determined to need continuous skilled nursing care. Skilled nursing care is provided by a registered nurse or licensed practical nurse under the direction of the recipient's physician to the recipient and not to other household members. If there is more than one person in a household who is determined to require TennCare-reimbursed private duty nursing services, it is not necessary to have multiple nurses providing the services. A single nurse may provide services to multiple enrollees in the same home and during the same hours, as long as he can provide these services safely and appropriately to each enrollee.
- (b) If it is determined by the MCO to be cost-effective, non-skilled services may be provided by a nurse rather than a home health aide. However, it is the total number of hours of skilled nursing services, not the number of hours that the nurse is in the home, that determines whether the nursing services are continuous or intermittent.
- (c) Private duty nursing services are covered for adults aged 21 and older only when medically necessary to support the use of ventilator equipment or other life-sustaining medical technology when constant nursing supervision, visual assessment, and monitoring of both equipment and patient are required. For purposes of this rule, an adult is considered to be using ventilator equipment or other life-sustaining medical technology if he:
 - 1. Is ventilator dependent for at least 12 hours each day with an invasive patient end of the circuit (i.e., tracheostomy cannula); or
 - 2. Is ventilator dependent with a progressive neuromuscular disorder or spinal cord injury, and is ventilated using noninvasive positive pressure ventilation (NIPPV) by mask or mouthpiece for at least 12 hours each day in order to avoid or delay tracheostomy (requires medical review); or
 - 3. Has a functioning tracheostomy:
 - (i) Requiring suctioning; and
 - (ii) Oxygen supplementation; and
 - (iii) Receiving nebulizer treatments or requiring the use of Cough Assist/ in-exsufflator devices; and

(iv) In addition, at least one subitem from each of the following items (I and II) must be met:

(I) Medication:

- I. Receiving medication via a gastrostomy tube (G-tube); or
- II. Receiving medication via a Peripherally Inserted Central Catheter (PICC) line or central port; and

(II) Nutrition:

- I. Receiving bolus or continuous feedings via a permanent access such as a G-tube, Mickey Button, or Gastrojejunostomy tube (G-J tube); or
- II. Receiving total parenteral nutrition.

- (d) Private duty nursing services are covered as medically necessary for children under the age of 21 in accordance with EPSDT requirements. As a general rule, only a child who is dependent upon technology-based medical equipment requiring constant nursing supervision, visual assessment, and monitoring of both equipment and child will be determined to need private duty nursing services. However, determinations of medical necessity will continue to be made on an individualized basis.
- (e) A child who needs less than eight (8) hours of continuous skilled nursing care during a 24-hour period or an adult who needs nursing care but does not qualify for private duty nursing care per the requirements of these rules may receive medically necessary nursing care as an intermittent service under home health.
- (f) General childcare services and other non-hands-on assistance such as cleaning and meal preparation shall not be provided by a private duty nurse. Because children typically have non-medical care needs which must be met, to the extent that private duty nursing services are provided to a person or persons under 18 years of age, a responsible adult (other than the private duty nurse) must be present at all times in the home during the provision of private duty nursing services unless all of the following criteria are met:
1. The child is non-ambulatory; and
 2. The child has no or extremely limited ability to interact with caregivers; and
 3. The child shall not reasonably be expected to have needs that fall outside the scope of medically necessary TennCare covered benefits (e.g., the child has no need for general supervision or meal preparation) during the time the private duty nurse is present in the home without the presence of another responsible adult; and
 4. No other children shall be present in the home during the time the private duty nurse is present in the home without the presence of another responsible adult, unless these children meet all of the criteria stated above and are also receiving TennCare-reimbursed private duty nursing services.

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Department of Finance & Administration (board/commission/ other authority) on 06/07/2017 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 03/22/17

Rulemaking Hearing(s) Conducted on: (add more dates). 05/16/17

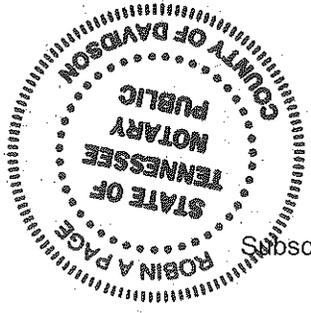
Date: 6/7/17

Signature: Wendy Long

Name of Officer: Wendy Long, M.D., M.P.H.

Director, Bureau of TennCare

Title of Officer: Tennessee Department of Finance & Administration



Subscribed and sworn to before me on: 6/7/17

Notary Public Signature: Robin A Page

My commission expires on: 11/3/20

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III

Herbert H. Slatery III

Attorney General and Reporter

6/29/2017

Date

Department of State Use Only

Filed with the Department of State on: 7/13/17

Effective on: 10/1/17

Fre Hargett

Fre Hargett
Secretary of State

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PUBLICATIONS

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Finance and Administration

DIVISION: TennCare

SUBJECT: TennCare Standard definitions

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 4-5-202, 71-5-105, and 71-5-109

EFFECTIVE DATES: October 1, 2017 through June 30, 2018

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: This rulemaking hearing rule is being promulgated to add to the definition of Private Duty Nursing Services (PDN) the eligibility of an enrollee who is ventilator dependent with a progressive neuromuscular disorder or spinal cord injury, and is ventilated using noninvasive positive pressure ventilation (NIPPV) by mask or mouthpiece for at least 12 hours each day to avoid or delay tracheostomy to receive PDN services.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

There were no comments on this rule.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

The rule is not anticipated to have an effect on small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The rule is not anticipated to have an impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This rule is being promulgated to add to the definition of Private Duty Nursing Services (PDN) the eligibility of an enrollee who is ventilator dependent with a progressive neuromuscular disorder or spinal cord injury, and is ventilated using noninvasive positive pressure ventilation (NIPPV) by mask or mouthpiece for at least 12 hours each day to avoid or delay tracheostomy to receive PDN services.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The Rule is lawfully adopted by the Bureau of TennCare in accordance with T.C.A. §§ 4-5-202, 71-5-105 and 71-5-109.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The persons and entities most directly affected by this Rule are TennCare enrollees, providers, and managed care contractors. The governmental entity most directly affected by this Rule is the Bureau of TennCare, Tennessee Department of Finance & Administration.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

The Rules were approved by the Tennessee Attorney General. No additional opinion was given or requested.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The promulgation of this rule is anticipated to produce a minimal fiscal impact on state revenues and expenditures.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Donna K. Tidwell
Deputy General Counsel

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Donna K. Tidwell
Deputy General Counsel

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

310 Great Circle Road
Nashville, TN 37243
(615) 507-6852
donna.tidwell@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

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GW10117124

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Sequence Number: 07-03-17
Rule ID(s): 6559
File Date: 7/3/17
Effective Date: 10/1/17

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Department of Finance & Administration
Division:	Bureau of TennCare
Contact Person:	George Woods
Address:	310 Great Circle Road
Zip:	37243
Phone:	(615) 507-6446
Email:	george.woods@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1200-13-14	TennCare Standard
Rule Number	Rule Title
1200-13-14-.01	Definitions

RULES
OF
TENNESSEE DEPARTMENT OF FINANCE AND ADMINISTRATION
BUREAU OF TENNCARE

CHAPTER 1200-13-14
TENNCARE STANDARD

1200-13-14-.01 DEFINITIONS.

(111) PRIVATE DUTY NURSING SERVICES shall mean nursing services for recipients who require eight (8) or more hours of continuous skilled nursing care during a 24-hour period.

- (a) A person who needs intermittent skilled nursing functions at specified intervals, but who does not require continuous skilled nursing care throughout the period between each interval, shall not be determined to need continuous skilled nursing care. Skilled nursing care is provided by a registered nurse or licensed practical nurse under the direction of the recipient's physician to the recipient and not to other household members. If there is more than one person in a household who is determined to require TennCare-reimbursed private duty nursing services, it is not necessary to have multiple nurses providing the services. A single nurse may provide services to multiple enrollees in the same home and during the same hours, as long as he can provide these services safely and appropriately to each enrollee.
- (b) If it is determined by the MCO to be cost-effective, non-skilled services may be provided by a nurse rather than a home health aide. However, it is the total number of hours of skilled nursing services, not the number of hours that the nurse is in the home, that determines whether the nursing services are continuous or intermittent.
- (c) Private duty nursing services are covered for adults aged 21 and older only when medically necessary to support the use of ventilator equipment or other life-sustaining medical technology when constant nursing supervision, visual assessment, and monitoring of both equipment and patient are required. For purposes of this rule, an adult is considered to be using ventilator equipment or other life-sustaining medical technology if he:
 - 1. Is ventilator dependent for at least 12 hours each day with an invasive patient end of the circuit (i.e., tracheostomy cannula); or
 - 2. Is ventilator dependent with a progressive neuromuscular disorder or spinal cord injury, and is ventilated using noninvasive positive pressure ventilation (NIPPV) by mask or mouthpiece for at least 12 hours each day in order to avoid or delay tracheostomy (requires medical review); or
 - 3. Has a functioning tracheostomy:
 - (i) Requiring suctioning; and
 - (ii) Oxygen supplementation; and
 - (iii) Receiving nebulizer treatments or requiring the use of Cough Assist/ in-exsufflator devices; and
 - (iv) In addition, at least one subitem from each of the following items (I and II) must be met:

- (I) Medication:
 - I. Receiving medication via a gastrostomy tube (G-tube); or
 - II. Receiving medication via a Peripherally Inserted Central Catheter (PICC) line or central port; and
- (II) Nutrition:
 - I. Receiving bolus or continuous feedings via a permanent access such as a G-tube, Mickey Button, or Gastrojejunostomy tube (G-J tube); or
 - II. Receiving total parenteral nutrition.
- (d) Private duty nursing services are covered as medically necessary for children under the age of 21 in accordance with EPSDT requirements. As a general rule, only a child who is dependent upon technology-based medical equipment requiring constant nursing supervision, visual assessment, and monitoring of both equipment and child will be determined to need private duty nursing services. However, determinations of medical necessity will continue to be made on an individualized basis.
- (e) A child who needs less than eight (8) hours of continuous skilled nursing care during a 24-hour period or an adult who needs nursing care but does not qualify for private duty nursing care per the requirements of these rules may receive medically necessary nursing care as an intermittent service under home health.
- (f) General childcare services and other non-hands-on assistance such as cleaning and meal preparation shall not be provided by a private duty nurse. Because children typically have non-medical care needs which must be met, to the extent that private duty nursing services are provided to a person or persons under 18 years of age, a responsible adult (other than the private duty nurse) must be present at all times in the home during the provision of private duty nursing services unless all of the following criteria are met:
 - 1. The child is non-ambulatory; and
 - 2. The child has no or extremely limited ability to interact with caregivers; and
 - 3. The child shall not reasonably be expected to have needs that fall outside the scope of medically necessary TennCare covered benefits (e.g., the child has no need for general supervision or meal preparation) during the time the private duty nurse is present in the home without the presence of another responsible adult; and
 - 4. No other children shall be present in the home during the time the private duty nurse is present in the home without the presence of another responsible adult, unless these children meet all of the criteria stated above and are also receiving TennCare-reimbursed private duty nursing services.

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Department of Finance & Administration (board/commission/ other authority) on 06/12/2017 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 03/22/17

Rulemaking Hearing(s) Conducted on: (add more dates). 05/16/17

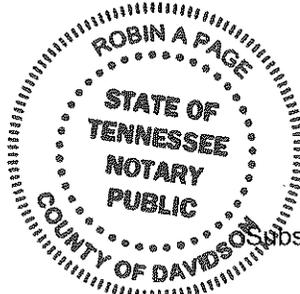
Date: 6/12/17

Signature: Wendy Long MD

Name of Officer: Wendy Long, M.D., M.P.H.

Director, Bureau of TennCare

Title of Officer: Tennessee Department of Finance & Administration



Subscribed and sworn to before me on: 6/12/17

Notary Public Signature: Robin A. Page

My commission expires on: 11/3/20

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III

Herbert H. Slatery III

Attorney General and Reporter

6/29/2017

Date

Department of State Use Only

Filed with the Department of State on: 7/3/17

Effective on: 10/1/17

Tre Hargett

Tre Hargett
Secretary of State

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